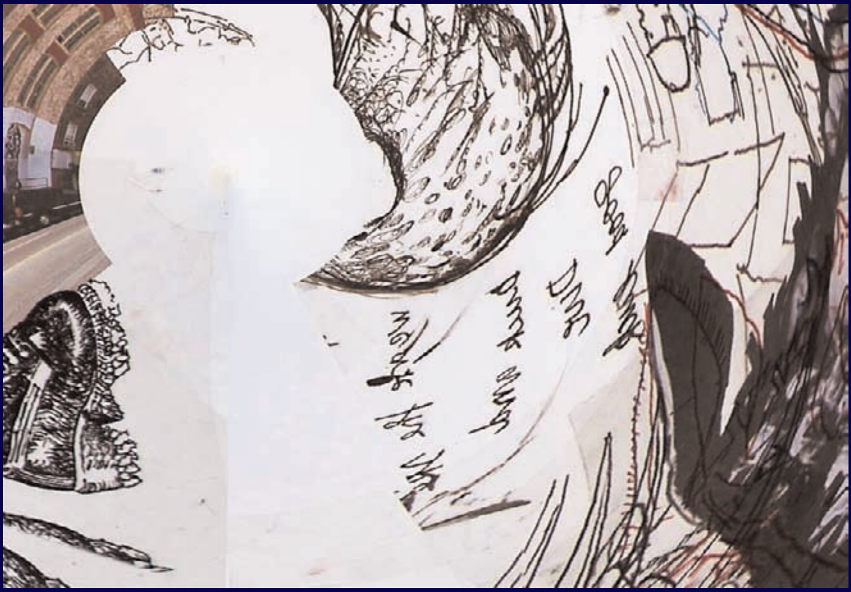
Blackwell Companions to Philosophy

A Companion to Contemporary Political Philosophy

VOLUME TWO

Second Edition



Edited by
ROBERT E. GOODIN, PHILIP PETTIT and THOMAS POGGE

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A Companion to Contemporary Political Philosophy

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A Companion to Contemporary Political Philosophy

2nd Edition

Volume I

Edited by
Robert E. Goodin,
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Thomas Pogge

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BLACKWELL PUBLISHING
350 Main Street, Malden, MA 02148-5020, USA
9600 Garsington Road, Oxford OX4 2DQ, UK
550 Swanston Street, Carlton, Victoria 3053, Australia

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First edition published 1993
This edition published 2007 by Blackwell Publishing Ltd

1 2007

Library of Congress Cataloging-in-Publication Data

A companion to contemporary political philosophy / edited by Robert E. Goodin, Philip Pettit. – 2nd ed.
p. cm.
Includes bibliographical references and index.
ISBN 978-1-4051-3653-2 (hardcover : alk. paper) 1. Political science–Philosophy. I. Goodin, Robert E. II. Pettit, Philip, 1945–

JA71.C565 2007
320.01–dc22
2007005639

A catalogue record for this title is available from the British Library.

Set in 10 on 12.5 Photina
by SNP Best-set Typesetter Ltd., Hong Kong
Printed and bound in Singapore
by COS Printers Ltd

The publisher's policy is to use permanent paper from mills that operate a sustainable forestry policy, and which has been manufactured from pulp processed using acid-free and elementary chlorine-free practices. Furthermore, the publisher ensures that the text paper and cover board used have met acceptable environmental accreditation standards.

For further information on
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www.blackwellpublishing.com

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Preface to the First Edition

This *Companion* – like the series of *Blackwell Companions to Philosophy* more generally – has come about through the initiative of Stephan Chambers and Alyn Shipton who, together with Richard Beatty, have been sources of sound advice and encouragement. We should record, first and foremost, our debt – and the profession's – to them.

In commissioning pieces for the present volume, our first priority has of course always been academic excellence. But excellence takes many forms. Within that broad constraint, we were always also striving for a good blend of younger and more established scholars, representing a fair mix of disciplinary affiliations, national origins and intellectual styles. We are pleased with our contributors' handiwork; each, in his or her own very different way, has made a strong statement of how to do political philosophy in that particular mode. We would also like to think that, without any heavy-handed attempt on our part at imposing uniformity on what is by its nature a disparate academic community, our contributors have managed among themselves to produce a genuinely coherent synopsis of the 'state of play' in contemporary political philosophy worldwide.

This *Companion* owes something of its character and stance to the simultaneous development of the *Journal of Political Philosophy*. It, too, is published by Blackwell and edited from Canberra by a team which is strongly represented in the *Companion*: Robert Goodin and Chandran Kukathas are the Editors of the *Journal*; its Associate Editors include Geoffrey Brennan, Tom Campbell, Barry Hindess, Philip Pettit, Andrew Reeve and Jeremy Waldron. We hope that one of the many purposes the *Companion* might serve is as something of an indication of where the *Journal* is coming from and where it is heading.

The editing of this *Companion* (and that new *Journal*) was made much easier by the many political philosophers who are now based in Canberra. Joining long-time denizens of the Australian National University like John Passmore, Eugene Kamenka, Robert Brown and Richard Sylvan, and well-established ones like Philip Pettit, Geoffrey Brennan and Knud Haakonssen, are a spate of fairly recent arrivals including Robert Goodin from Essex, Tom Campbell from Glasgow, Peter Self from the LSE, Barry Hindess and David West from Liverpool and, on an Adjunct Professor basis, Brian Barry from the LSE and Carole Pateman from UCLA. Many other *Companion* contributors (among them, Russell Hardin, Alan Ryan, Gerald Dworkin and Alan Hamlin) are frequent visitors to the ANU.

The form of a reference book precludes authors of individual chapters from acknowledging assistance, as several would have wished. Editors operate under no such constraint. And there is much assistance to be acknowledged. Valuable suggestions regarding the shape of the book as a whole (including possible topics and contributors) have come from Russell Hardin, Chandran Kukathas and John Passmore, as well as from our Blackwell editors. Peter Singer, as editor of a sister volume, provided useful advice on the perils and pitfalls of such an enterprise. Canberra-based contributors benefited from comments of colleagues at a pair of one-day workshops (focusing primarily on Parts I and II of the *Companion*) held at the Australian National University in September 1991.

Robert E. Goodin and Philip Pettit
Canberra, Australia
May 1992

Preface to the Second Edition

The second edition of the *Companion to Contemporary Political Philosophy*, prepared over a dozen years after the first, has been thoroughly revamped in order to take account of recent developments in the subject. Most of the entries from the first edition have been rewritten by the original hands, with a few being supplemented by other authors where the original was no longer available; a few have been penned afresh by new hands; and a range of extra entries have been added. Where there were just over forty chapters in the original work, there are nearly sixty in this.

Some of the new entries are ones that, in hindsight, we might well have included in the first edition. We decided in the light of feedback from readers, and our own sense of things, that these would be useful additions and would help enhance the coverage of the *Companion*. Other new entries were prompted by new developments in political theory, and indeed by changes in the political world itself. The most striking examples here are the number of new entries related to issues of international relations and global justice. These did not have the salience in the early 1990s that they have assumed in recent years.

Despite all these changes – these improvements, as we believe – our hope is that the book retains its character and will continue to find favour with readers. We are pleased that the *Journal of Political Philosophy*, too, has done so well. Launched simultaneously with the first edition of the *Companion*, the *JPP* has firmly established itself as one of the leading journals in the field.

We who sign off on this later preface are now three, not two. Thomas Pogge was an obvious addition for the editorial team, in view of his knowledge of issues in international political theory and given his temporary presence and continuing association with the Australian National University; the ANU remains Robert Goodin's base and for Philip Pettit it is a home away from home, where he is a regular visitor.

The second edition would not have been undertaken without the encouragement and prompting of Nick Bellorini and the support of Kelvin Matthews at Blackwell's. And it certainly would not have materialized without the willingness of our authors, old and new, to devote themselves to a hard task, often under heavy pressures of time. We owe them all a large debt of gratitude.

Robert E. Goodin, Philip Pettit and Thomas Pogge
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Introduction

A 'companion' is not a dictionary or an encyclopedia or a literature review. Unlike a dictionary, it is not primarily intended to provide an explication or a history of technical concepts; it is meant to offer substantive commentary on the work pursued in the relevant field of study. Unlike an encyclopedia, it is not committed to the systematic perspective of the official record; it is designed to be a practical guide for someone who wants to find their way through the relevant field. And unlike a literature review, it is not directed only at professionals in the area; it is also written with a view to those who come fresh and unseasoned to the topics discussed.

So much for the distinctive viewpoint of a companion. What now of the terrain on which it is trained? What is encompassed in *Contemporary Political Philosophy*?

Instead of *philosophy* we might well have said 'theory', for political theory is often taken to coincide with what we have in mind as political philosophy. If we have chosen the word 'philosophy', that is to mark, unambiguously, the fact that our interest is in normative thinking. Political theory sometimes connotes empirical as well as normative thought: thought that bears primarily on how to explain rather than on how to evaluate; another *Companion* takes those topics as its focus (Bottomore and Outhwaite, 1993; Outhwaite, 2003). Political philosophy, in contrast, is unequivocally concerned with matters of evaluation.

But though our interest is in normative or evaluative thought, we should stress that we take a broad view about the range of issues that are normatively relevant to political philosophy. Thus we suppose that questions about what can feasibly be achieved in a certain area are just as central to normative concerns as questions about what is desirable in that area. We understand political philosophy in such a way that it does not belong to the narrow coterie of those who would just contemplate or analyse the values they treasure. It should come as no surprise that we look to a range of disciplines in charting contributions to political philosophy. We look, not just to philosophy – analytical and continental – but also to economics, history, law, political science and sociology.

What does it mean to say that our concern is with *political* philosophy? Moral philosophy – if you like, ethics – is concerned with normative thinking about how in general various agents, individual or collective, should behave. So what is the concern of political philosophy? Primarily, it is a concern to identify the sorts of

political institutions that we should have, at least given the background sort of culture or society that we enjoy. To take the view that we should have certain political institutions will imply that if such institutions are in place, then, other things being equal, agents should not act so as to undermine them. But in general the connections between moral and political philosophy are quite weak. Thus, our political philosophy may not tell us how agents should behave in the imperfect world where the ideal institutions are lacking or where the ideal institutions are abused by those who run them. It may not give us much guidance on issues related to what used to be described as the problem of political obligation.

But if political philosophy is concerned with which political institutions we ought to have, what institutions count as political? On a narrow construal, political institutions would mean the institutions associated with political process such as the voting system, the parliamentary system, the system for choosing the executive, and so on: the sorts of things surveyed in the parallel *Blackwell Encyclopedia of Political Institutions* (Bogdanor, 1987). On a broader construal, political institutions would include not just those procedural devices but also any substantive institutions associated, as we might say, with the political product: any institutions that can be affected by those who assume power under the political process. Political institutions in this sense would include the major legal and economic and even cultural institutions, in addition to the arrangements of government. We understand political institutions in this broader way, as indeed do most political philosophers. Political philosophy, as we conceive of it, is not just interested in the routines that govern politics but also in the various systems which politics may be used to shape. It is concerned with all the institutions that constitute what John Rawls (1971, sec. 2) describes as the 'basic structure' of a society. And it is also concerned with the supranational institutions that assume increasing importance with growing international influences through trade, investment, travel, culture imports, and ecological and epidemiological externalities.

Finally, what is connoted by our focus on *contemporary* political philosophy? Within the analytical tradition of thought, as that affects both philosophy and other disciplines, political philosophy has become an active and central area of research in the past three or four decades; it had enjoyed a similar status in the nineteenth century but had slipped to the margins for much of the twentieth. In directing the *Companion* to contemporary political philosophy, we mean to focus on this recent work. (For other anthologies and surveys, see for example: Quinton, 1967; Ionescu, 1980; Hamlin and Pettit, 1989; Miller, 1990; Held, 1991; Goodin and Pettit, 1997; Kymlicka, 2002; Williams and Clayton, 2004; Swift, 2006.) In many cases discussion of recent work requires some commentary on earlier literature, but here we do only as much of that as strictly necessary to understand the contemporary scene and anyone wanting full background ought to look elsewhere (for example, to Miller, 1987; Cahn, 1996; Simon, 2002; Cahn 2004).

Within non-analytical traditions, in particular, it is not so clear what is to count as contemporary; but here too our general focus has been on work in the last two or three decades. Often, however, non-analytical thought is intimately tied up with figures from the past – history has a different presence here – and we have been happy in these cases to have our contributors give more attention to such figures. For example, it would be impossible to understand the French wave of deconstructionist thought without some

understanding of Nietzsche, for deconstructionists focus on this nineteenth-century German thinker as if he were a prophet of their perspective.

Because it is a companion to contemporary political philosophy, and not a reference work of a more standard kind, we have decided to organize the material in an unusual manner. The book is divided into three broad sections, with long discussions in the first section of the contributions of different disciplines to the subject area; somewhat shorter discussions, in the second section, of the major ideologies which have cast their shadow across the territory; and shorter treatments still, in the final section, of various topics of special interest.

The distinctive and exciting thing about contemporary political philosophy is that it has involved the work of practitioners in a variety of disciplines, or at least the use of work done by people in a variety of disciplines. Rawls in analytical philosophy, Habermas in continental philosophy, Sen in economics, Dworkin in law, Skinner in history, Barry in political science: all of these are names that would figure in any account of what is happening in contemporary political philosophy. But while the researchers involved in different disciplines focus on questions that are treated across an interdisciplinary front, and while most of them maintain a working knowledge of what is happening in disciplines besides their own, the disciplinary dispersion of the subject does create many problems.

It is with these problems in mind that we decided to open the *Companion* with a section devoted to long introductions to the contributions made by each of these relevant disciplines to contemporary political philosophy. Each article is meant to familiarize the reader with the sorts of issues in political philosophy that have particularly concerned those in the discipline in question and with the techniques and models developed in an attempt to cope with them. We hope that the articles will serve as a whole to enable the relative newcomer to look at the different avenues on which political philosophy is pursued, and that it will make it possible for the relative expert in any one discipline to get a picture of what is happening elsewhere.

It is a striking feature of political philosophy, hardly surprising in virtue of the practical relevance of the subject, that apart from divisions on disciplinary lines, it also displays divisions on ideological dimensions. In selecting the ideologies to be covered in the second section, we tried to identify those principled world-views that have a substantial impact in contemporary public life as well as an impact on philosophical thinking.

Environmentalism figures in Part III, rather than here, on the grounds that it does not really represent complete world-views, at least for most of those espousing them. Racism, sexism and ageism do not figure, on the grounds that they hardly count as principled ways of thinking about things. And republicanism is relegated to Part III, because while the rediscovery of republican thought has influenced a number of theorists, it has not had a substantial impact on public life. Yet other ideologies – like monarchism and fascism – are omitted on the grounds that, whatever impact they once had on public life, they would seem to play only a marginal role in the contemporary world.

The ideologies we do include are of such importance, both as social movements and as traditions of thinking, that someone unacquainted with any one of them would be seriously compromised in their ability to understand what is happening in

contemporary political philosophy. And since our interest in them is essentially as systems of ideas, we organize discussions of them along the lines of their theoretical self-descriptions rather than in terms of their institutional instantiations: ‘Marxism’ rather than ‘communism’, ‘socialism’ rather than ‘social democracy’, and so on.

We believe that Parts I and II cover much of the ground that is relevant to contemporary political philosophy, and enable us to see that ground from different angles. But there are a number of important topics that receive too little attention in those sections: usually they are topics which it would be impossible to deal with adequately in the course of an overview treatment of a discipline or an ideology. Part III identifies a range of such topics and includes shorter discussions of them. The *Companion* would not approach the ideal of being a more or less complete guide to contemporary political philosophy unless it gave this level of attention to the matters involved.

How to use these volumes? We hope that readers will find the different articles more or less self-sufficient discussions of the subjects they treat. The treatment in each case is distinctive, reflecting the viewpoint of the author. But in no case is the treatment idiosyncratic: in no case does it warp the topics covered to fit with the angle taken. We would like to believe that the volumes represent an attractive way of getting a perspective on contemporary political philosophy and an accessible way of getting into particular areas of interest.

But these volumes are not just an integrated set of introductions to different aspects of contemporary political philosophy. They should also serve as a useful reference work. Here we think that the index is of primary importance. We have designed the index to cover the concepts that someone looking for a reference work in political philosophy would be likely to want to explore. We think that in the articles which the volumes contain there is material sufficient to elucidate those concepts, and often to elucidate them from different angles: from the viewpoint, now of this discipline, now of that; in the context, now of one ideology, now of another; with the focus, now of a contextualized treatment, now of a specialized discussion. The index is designed to enable someone to access relevant material easily and to use the volumes effectively as a work of reference.

References

Bogdanor, V., ed.: *The Blackwell Encyclopedia of Political Institutions* (Oxford: Blackwell, 1987).

Bottomore, T. and Outhwaite, W., eds: *A Companion to Social Theory* (Oxford: Blackwell, 1993).

Cahn, S., ed.: *Classics of Modern Political Theory: Machiavelli to Mill* (Oxford: Oxford University Press, 1996).

—: *Political Philosophy: The Essential Texts* (Oxford: Oxford University Press, 2004).

Goodin, R. and Pettit, P., eds: *Contemporary Political Philosophy: An Anthology* (Oxford: Blackwell, 1997; 2nd edn 2005).

Hamlin, A. and Pettit, P., eds: *The Good Polity* (Oxford: Blackwell, 1989).

Held, D., ed.: *Political Theory Today* (Cambridge: Polity, 1991).

Ionescu, G., ed.: ‘A generation of political thought’, *Government & Opposition*, 15 (1980), 261–566.

Kymlicka, W.: *Contemporary Political Philosophy: An Introduction* (Oxford: Oxford University Press, 2002 [1990]).

Miller, D., ed.: *The Blackwell Encyclopedia of Political Thought* (Oxford: Blackwell, 1987).
—: 'The resurgence of political theory', *Political Studies*, 38 (1990), 421–37.
Outhwaite, W., ed.: *The Blackwell Dictionary of Modern Social Thought*, 2nd edn (Oxford: Blackwell, 2003 [1993]).
Quinton, A., ed.: *Political Philosophy* (Oxford: Oxford University Press, 1967).
Rawls, J.: *A Theory of Justice* (Cambridge, Mass.: Harvard University Press, 1999 [1971]).
Simon, R.: *The Blackwell Guide to Social and Political Philosophy* (Oxford: Blackwell, 2002).
Swift, A.: *Political Philosophy: A Beginners' Guide for Students and Politicians* (Oxford: Polity Press, 2006 [2001]).
Williams, A. and Clayton, M., eds: *Social Justice* (Oxford: Blackwell, 2004).

Volume I

Part I

Disciplinary Contributions

Chapter 1

Analytical Philosophy

PHILIP PETTIT

Introduction

Analytical philosophy is philosophy in the mainstream tradition of the Enlightenment. Specifically, it is philosophy pursued in the manner of Hume and Kant, Bentham and Frege, Mill and Russell. What binds analytical figures together is that they endorse, or at least take seriously, the distinctive assumptions of the Enlightenment. These assumptions go, roughly, as follows:

1 There is a reality independent of human knowledge of which we human beings are part.
2 Reason and method, particularly as exemplified in science, offer us the proper way to explore that reality and our relationship to it.
3 In this exploration traditional preconceptions – in particular, traditional evaluative preconceptions – should be suspended and the facts allowed to speak for themselves.

With these assumptions in place, analytical philosophers see their job in one of two ways. They see themselves as pursuing the Enlightenment project of methodical investigation, carving out areas of philosophical inquiry and methods of philosophical argument; or they see themselves as methodologically charting the pursuit of that project elsewhere, providing a perspective on the nature of scientific and other approaches to knowledge. Either way the key word is 'method'. In this focus on method, and in their broader affiliations, analytical philosophers distinguish themselves from the counter-Enlightenment or continental tradition. They take their distance from more or less Romantic figures like Rousseau, Herder, Hegel and the early Marx, and from disciplinary approaches – say, in sociology or anthropology – that are heavily influenced by such thinkers. They distance themselves equally from philosophers of a more sceptical and anti-systematic cast like Kierkegaard and Nietzsche and from the many later thinkers, philosophical and non-philosophical, who identify with them. And, finally, they reject styles of philosophical thought that are distinctively shaped by certain traditions of religious, cultural or political commitment.

Sometimes analytical philosophy is demarcated geographically as the style of philosophy pursued, in the main, among English-speaking philosophers, or at least among English-speaking philosophers in the twentieth century. My account fits loosely with this geographical criterion. Most English-speaking philosophy is methodologically driven or methodologically focused in the Enlightenment manner, while much but by no means all continental thinking is not; one striking exception, for example, is Jürgen Habermas, who has exercised an enormous influence in analytical circles. For ease of reference, however, I will focus on writers in the English-speaking tradition.

My concern here is with the contribution that analytical philosophers, in particular recent analytical philosophers, have made to political philosophy: that is, to normative thinking about the sorts of institutions that we ought politically to try and establish. It will be convenient to discuss this contribution in two different phases. First, I will offer an overview of the history of analytical political philosophy in recent decades. And then I will look at the legacy of assumptions, often assumptions unnoticed and unannounced, that analytical philosophers have tended to intrude, for good or ill, into political thinking.

Analytical Political Philosophy: the History

The long silence

One of the most striking features of analytical philosophy is that its major practitioners have often neglected politics in their active agenda of research and publication. Political philosophy was a focus of analytical concern and activity in nineteenth-century Britain, when the main figures were Jeremy Bentham, John Stuart Mill and Henry Sidgwick. These thinkers established a broad utilitarian consensus, according to which the yardstick in assessing political institutions – in assessing institutions that are politically variable – is the happiness of the people affected by those institutions, in particular the happiness of the people who live under the institutions. They all acknowledged other values, in particular the value of liberty, but they argued that such values were important only for their effect on happiness.

But the utilitarian bustle of the nineteenth century soon died down. From late in the century to about the 1950s political philosophy ceased to be an area of active exploration. There was lots done on the history of the subject and of course this often reflected a more or less widely accepted set of assumptions. But there was little or nothing of significance published in political philosophy itself. Peter Laslett summed up the situation in 1956 when he wrote: 'For the moment, anyway, political philosophy is dead' (Laslett, 1956, p. vii).

This all changed within a decade of Laslett's pronouncement. In 1959 Stanley Benn and Richard Peters published *Social Principles and the Democratic State*, in 1961 H. L. A. Hart published *The Concept of Law* and in 1965 Brian Barry published *Political Argument*. Benn and Peters argued, in a fashion that would have cheered many of their nineteenth-century forebears, that most of the principles we find attractive in politics reflect a utililitarian disposition. The books by Hart and Barry were considerably more

revolutionary. Each used techniques associated with current analytical philosophy to resume the sort of discussion of grand themes that had been the hallmark of the nineteenth century. And each developed a novel perspective on the matters that it treated. Hart used contemporary techniques to defend a positivist view of law against the view that law was the command of the sovereign; that view had been defended by the nineteenth-century utilitarian jurisprude John Austin. Barry used such techniques to try, among other things, to make a pluralism about values intellectually respectable; this pluralism was directly opposed to the utilitarian tradition in which everything had been reduced to the value of utility.

Why had there been such a silence in political philosophy through the first half of the twentieth century? A number of factors may have made a contribution. There were methodological reasons why political philosophy may not have seemed to be an attractive area to analytical philosophers during that period. But there was also a substantive reason why it should have failed to engage them. I will look at the methodological reasons first and then at the substantive consideration.

Analytical philosophy became methodologically more and more self-conscious in the early part of the century, with the development of formal logic in the work of Frege and Russell. Two propositions emerged as orthodoxy and were incorporated into the logical positivist picture of the world that swept the tradition in the 1920s and 1930s (Ayer, 1936). One of these propositions was that evaluative or normative assertions did not serve, or at least did not serve primarily, to essay a belief as to how things are; their main job was to express emotion or approval/disapproval, much in the manner of an exclamation like 'Wow!' or 'Ugh!' The other proposition was that among assertions that do express belief, there is a fairly exact divide between empirical claims that are vulnerable to evidential checks and analytical or *a priori* claims, such as mathematical propositions, that are true in virtue of the meaning of their terms.

These two propositions would have given pause to any analytical philosophers bent on doing political philosophy. They would have suggested that since philosophy is not an empirical discipline, and since there are few *a priori* truths on offer in the political arena, its only task in politics can be to explicate the feelings or emotions we are disposed to express in our normative political judgements. But that job may not have seemed very promising to many philosophers. If you are possessed of the Enlightenment urge to advance the frontiers of knowledge, or to map the advances that occur elsewhere, then trying to articulate non-cognitive feelings may look like small beer. The best-known logical positivist tract on political philosophy is T. D. Weldon's *The Vocabulary of Politics*, published in 1953, and while it left room for this task of articulation, its main contribution was to pour cold water on the aspiration of political philosophy to say something important.

The propositions dividing the factual from the evaluative and the *a priori* from the empirical did not bulk large in the critique of logical positivism, and of theoretical philosophy generally, which was developed by Ludwig Wittgenstein from the 1930s through to the 1950s. But the propositions still retained a place in this post-positivist variety of analytical philosophy and, in any case, the Wittgensteinian development introduced extra methodological reasons why political philosophy should not have seemed a promising area of research. The development brought strains of counter-Enlightenment thought into analytical philosophy, emphasizing that the job of the

philosopher is to dispel the false images of reality that theorizing can generate – images like that of logical positivism – and to restore us to the ease and quiet of unexamined language use. If philosophy is cast in this therapeutic role then, once again, it is not obvious why political philosophy should be an attractive research area. Whatever the problems in politics, they do not look like problems of the sort that any kind of therapy could resolve.

Some figures who are associated loosely with the later Wittgenstein, in particular J. L. Austin and Gilbert Ryle, did not embrace his therapeutic view of philosophy. But these thinkers also nurtured a picture of philosophy in which political philosophy would not have been represented as a fetching or challenging activity. Both of them thought of the main task of philosophy as charting and systematizing distinctions and habits of thought that are marked in ordinary language but that are often overlooked in crude theorizing, in particular theorizing about mind and its relation to the world. This conceptualization of the task of philosophy does as badly as the Wittgensteinian by political philosophy. It leaves political philosophy, at best, in a marginal position.

We can see, then, that there were methodological reasons why political philosophy may have come off the analytical research agenda in the first half of this century. But, as Brian Barry (1990) has argued, such reasons may not be sufficient to explain why it disappeared so dramatically. Consistently with thinking that normative judgements express feeling, one may believe that there is still an important task for reason in sorting out the different commitments that can be consistently made. The point would have been clear to most philosophers from the influential work of C. L. Stevenson (1944) or R. M. Hare (1952) in ethics. Again, consistently with thinking that the main job of philosophy is to carry forward the sort of programme described by Wittgenstein or Ryle or Austin, one may believe that a subsidiary job is to sort out the commitments that can rationally be sustained. So is there any other reason why political philosophy should have been neglected by analytical thinkers in the first half of the century?

Apart from methodological considerations, there is a substantive reason why the subject may not have engaged the best minds in this period. There was probably little puzzlement in the minds of Western philosophers in the early part of the century as to what are the rational commitments in regard to political values. Continental refugees like Popper may have felt that they had something to establish, for they would have had a greater sense of the attractions of totalitarian government; Popper was one of the very few analytical philosophers to contribute, however historically and indirectly, to political theory (Popper, 1945; 1957). But the majority of analytical philosophers lived in a world where such values as liberty and equality and democracy held unchallenged sway. There were debates, of course, about the best means, socialist or otherwise, of advancing those values. But such debates would have seemed to most analytical philosophers to belong to the empirical social sciences. Hence those philosophers may not have seen any issues worth pursuing in the realm of political philosophy itself.

One qualification. There would have been an issue, it is true, as to how unquestioned values like liberty and equality should be weighted against each other. But many would have seen that question as theoretically irresoluble and intellectually uninteresting. And of those who found it resoluble most would have adopted the utilitarian view that the different values involved all reflect different aspects of utility, however that is to be

understood, in which case the question becomes equally uninteresting. Brian Barry (1990, p. xxxv) suggests that utilitarianism was the prevalent attitude over the period and that this made the enterprise of political philosophy look unfetching. Under utilitarianism exact political prescription depends entirely on facts about circumstances and so it lies beyond the particular expertise of the philosopher.

If these observations on the political silence of analytical philosophy are correct, then analytical philosophers in the mid-century would have been inhibited from tackling political matters by two factors. They had a sense, on the one side, that there was little useful work to be done on questions specifically related to values and, on the other, that questions related to facts were properly left to empirical disciplines. With these considerations in mind, we can understand why a book like Barry's *Political Argument* should have made such an impact when it appeared in 1965.

Barry rejected utilitarianism in favour of a value pluralism; here he was influenced by Isaiah Berlin's 1958 lecture on 'Two Concepts of Liberty' (Barry, 1990, p. xxiv). But he introduced the apparatus of indifference curves from economics to show that there is still interesting intellectual work to be done, even if you are a pluralist about values: even if you acknowledge different values, like liberty and equality and democracy, and believe that they do not resolve into a single value like the utilitarian's notion of happiness. There is work to be done in looking at the different possible trade-offs between the values involved and at their different institutional implications. This feature of Barry's work meant that he showed the way beyond the inhibition about discussing values.

He also showed the way beyond the inhibition about trespassing on empirical disciplines. Barry may have maintained a traditional notion of the demarcation between philosophy and the empirical disciplines. But, if he did, he still had no hesitation about advocating a union between philosophy and, for example, an economic way of modelling political problems, when considering how to match various packages of values with social institutions. His programme for pursuing this task was conceived in 'the marriage of two modern techniques: analytical philosophy and analytical politics' (Barry, 1965, p. 290).

Barry's book is reasonably identified as marking the end of the long political silence of analytical philosophy. While Hart's *Concept of Law* had also made a great impact, and while it retains the status of a classic, it was easily seen as a contribution to jurisprudence rather than philosophy and it did not open up new ways of thinking about politics. But Barry's book was itself superseded less than a decade later when John Rawls published *A Theory of Justice* in 1971. Barry (1990, p. lxix) generously acknowledges the fact. '*Political Argument* belongs to the pre-Rawlsian world while the world we live in is post-Rawlsian . . . *A Theory of Justice* is the watershed that divides the past from the present.'

A Theory of Justice

Rawls's book resembles Barry's in two salient respects. Like Barry, he is a pluralist about values but finds this no obstacle to the intellectual discussion of how the different values that are relevant in politics ought to be weighted against each other; the point is discussed below. And, like Barry, he is happy about contaminating pure philosophical

analysis with materials from the empirical disciplines in developing a picture of how to institutionalize his preferred package of values and in considering whether the institutions recommended are likely to be stable. Rawls does not acknowledge the clear distinction that logical positivists postulated between the empirical and the *a priori*. He writes, more or less consciously, in the tradition associated with the work of his Harvard colleague, W. V. O. Quine. For Quine (1960), all claims are vulnerable to experience, though some claims may be relatively costly to revise, and therefore relatively deeply entrenched in our web of belief: if you like, relatively *a priori*. This pragmatic attitude may explain how Rawls can comfortably import material from economics and psychology and other disciplines into his discussion.

So much for continuities between Rawls and Barry. The largest methodological break between the two writers comes in their different views of what the intellectual discussion of values involves. In Barry, the project is one of looking at principles that are actually endorsed in political life – specifically, in the politics of Britain, the USA and some similar countries from 1945 (Barry, 1965, p. xvii) – and then exploring the different possibilities of trade-offs between the values involved. In Rawls, the project gets to be much more engaged, in the way in which nineteenth-century utilitarianism had been engaged. He is interested, not in the different beliefs we actually hold about what is politically right, but in what beliefs we ought to hold about what is politically right.

Rawls restricts himself to the question of what makes for justice, of what makes for the proper political balancing of competing claims and interests (Rawls, 1971, pp. 3–6); he believes that justice in this sense, justice as fairness, is the main right-making feature of political institutions (Rawls, 1971, pp. 3–4). But Rawls is not interested just in distinguishing different, internally coherent conceptions of justice and in looking at what they institutionally require, as Barry is interested in different packages of values and their institutional requirements. He is concerned, in the first place, with what is the appropriate conception of justice to have and what, therefore, are the right institutions to establish.

The aspiration to identify the appropriate conception of justice is tempered in Rawls's later work, where he explicates his aim as one of identifying the appropriate conception for people who share the commitments 'latent in the public political culture of a democratic society' (Rawls, 1988, p. 252). But whether or not it is tempered in this way, the aspiration raises a question of method. How is the political philosopher to identify the appropriate conception of justice? It is significant that Rawls's first publication, 'Outline of a decision procedure for ethics' (1951), offers an answer to this question to which he remains broadly faithful in his later work. The method he proposes, in the language of *A Theory of Justice*, is the method of reflective equilibrium (Rawls, 1971, pp. 46–53).

Consider a discipline like logic or linguistics. To develop a logic, in the sense in which logic is supposed to explicate deductive or inductive habits of reasoning, is to identify principles such that conforming to those principles leads to inferences that are intuitively valid: valid on reflective consideration, if not at first sight. Again, to develop a theory of grammar is to find principles that fit in a similar fashion with our intuitions of grammaticality as distinct from validity. Rawls's proposal is that to develop a political theory, in particular a theory of justice, is to identify general principles such that

their application supports intuitively sound judgements as to what ought to happen in particular cases. It is to identify abstract principles that are in equilibrium with our concrete, political judgements.

It may seem that under this proposal political theory is going to be nothing more than an attempt to reconstruct our political prejudices systematically, finding principles that underpin them. But that would be a mistake. The judgements with which the principles are required to be in equilibrium are considered judgements: judgements reached after due consideration, free from the influence of special interests and other disturbing factors. Moreover, the equilibrium sought under Rawls's approach is a reflective equilibrium. It is very likely when we try to systematize our sense of justice that we will find certain considered judgements that refuse to fall under principles that elsewhere fit perfectly well. The reflective qualification means that in such a case we should focus, not on the principles, but on the recalcitrant judgements themselves, with a view to seeing whether they may not prove disposable in the light of the disequilibrium that they generate.

The method of reflective equilibrium is a method of justification in political philosophy, and in normative thinking generally. But Rawls does better still in answering the question of how we are to determine the appropriate conception of justice. In *A Theory of Justice* he directs us to a method of discovery for political philosophy as well as a method of justification. We want to know which principles for the ordering of society are just. Well then, he says, what we should do is each to ask after what principles we would want to establish for the ordering of society if we had to make our choice under ignorance about our characteristics and under ignorance, therefore, about which position we are likely to reach in that society. We should pursue a contractual method of exploration in seeking out the principles of justice, resorting later to the test of reflective equilibrium in checking whether the principles identified are satisfactory.

Why use the contractual method, rather than some other heuristic, in seeking to identify appropriate principles of justice? The idea of asking what would be chosen under a veil of ignorance is attractive to Rawls because, intuitively, any principles chosen in that sort of situation – the original position, he calls it – will be fair. The idea had already been urged by the utilitarian economist-cum-philosopher John Harsanyi (1953; 1955). But the device of the original position, and the associated contract, also serves to dramatize something that is very important in Rawls's thought: that the principles to be chosen should play a public role in the life of the society, being treated like a founding constitution or covenant (Kukathas and Pettit, 1990, ch. 3). The principles are to be general in form, not mentioning particular persons; they are to be universal in application, applying potentially to everyone; and, most important, they are to be publicly recognized as the final court of appeal for resolving people's conflicting claims (Rawls, 1971, pp. 1430–6).

Rawls thinks that as we do political philosophy, in particular as we seek out an appropriate conception of justice, we should move back and forth between the promptings of the contractual method and the requirements of the method of reflective equilibrium. We take a certain specification of the original position and consider what principles it would lead us to endorse as principles of justice. If we find a match or equilibrium between those principles and our considered judgements, then that is fine. If we do not, then we must think again. We must look to see whether it may be

appropriate to alter the specification of the original position in some way, so that different principles are endorsed, or whether it may rather be required of us to rethink the considered judgements with which the principles conflict. We carry on with this process of derivation, testing and amendment until finally, if ever, we achieve a reflective equilibrium of judgement. At that point we will have done the best that can be done by way of establishing an appropriate conception of the principles of justice that ought to govern our institutions.

In outlining this method of doing political philosophy, Rawls made contact with earlier traditions of thought. The contractual method connects explicitly with the seventeenth- and eighteenth-century tradition of contemplating a fictional state of nature prior to social or political life and considering the contract that people must have made, or perhaps ought to have made, in such a position (Lessnoff, 1986). Rawls uses the notion of contract only in a hypothetical fashion, where his predecessors gave it a historical or quasi-historical significance, but he clearly means to forge a connection with that earlier, contractual mode of thought. The method of reflective equilibrium, on the other hand, connects with a long tradition of ethical theory, at least according to Rawls (1971, p. 51). He suggests in particular that it was well articulated by the nineteenth-century utilitarian Henry Sidgwick, in his monumental study of the *Methods of Ethics* (but see Singer, 1974).

I have drawn attention to two features of Rawls's work. Like Barry in *Political Argument*, he finds room for the intellectual discussion of matters of value and, like Barry, he is willing to mix traditional philosophical discussion with a variety of contributions from more empirical disciplines. But in the intellectual discussion of values, he makes a decisive break with Barry. He sees the realm of value as an area worthy of intellectual exploration, not just in the spirit of the cultural analyst or critic, but in the spirit of someone seeking to determine the right political commitments; he justifies this stance by appeal to the test of reflective equilibrium and the heuristic of contractualist thinking.

However, *A Theory of Justice* was influential for substantive as well as methodological reasons. It developed a distinctive and widely discussed view of the appropriate principles of justice, as well as outlining the way to develop those principles in more concrete institutions. Rawls argued that in the original position, where we are ignorant of our chances of success in any social arrangement chosen, each of us would be led rationally to make a conservative choice, opting for a basic social structure which at its worst – though not necessarily at its best and not necessarily on average – would do better for someone than alternatives. He argued, in short, that the parties in the original position would maximin: they would choose the alternative with the highest low point, the maximal minimum. Given that the parties would maximin, he then went on to argue that this strategy would lead them to choose, among salient alternatives, a basic structure characterized by two principles of justice.

The two principles defended by Rawls are: first, 'Each person is to have an equal right to the most extensive total system of equal basic liberties compatible with a similar system of liberty for all' (Rawls, 1971, p. 250); and second, 'Social and economic inequalities are to be arranged so that they are both (a) to the greatest benefit of the least advantaged and (b) attached to all under conditions of fair equality of opportunity' (ibid., p. 83; see too p. 302). The first principle expresses a concern for liberty; the

second, which is known as the difference principle, expresses a presumption in favour of material equality, a presumption which is to be defeated only for the sake of raising the lot of the worst off in the society. The principles are to be applied, according to Rawls (ibid., pp. 302–3), under two priority rules; these rules give him a way of handling the plurality of values represented by the principles.

The first priority rule is that under normal, non-starvation conditions the first principle should never be compromised in the name of the second: its lesser fulfilment is never justified by the greater satisfaction of the second principle; more intuitively, no interference with the system of liberties, whether in respect of extensiveness or equality, is compensated for by an increase in anyone's socio-economic advantage. The second rule of priority is mainly concerned with the relationship between the two parts of the second principle, ordaining that fair equality of opportunity should never be restricted out of consideration for the greatest benefit of the least advantaged. Both of these rules are lexicographic forms of ordering, being of a kind with the rule that dictates the position of words in a dictionary. In each case the second element comes into play in ordering alternatives, only when the first element has made its contribution, as the second letter of a word comes into play in the ordering of a dictionary, only when the first letter has had its effect.

So much for the methodological and substantive novelties of *A Theory of Justice*. The developments that have characterized analytical political philosophy since the appearance of that book – and many of the developments that have characterized political theory more generally – can be represented as reactions of different sorts. We are now living, as Barry puts it, in a post-Rawlsian world.

There has been a great deal of work since *A Theory of Justice*, including work by Rawls himself (1993; 1999; 2001), on the more or less detailed discussion and critique of the approach in that book (Daniels, 1975; Pogge, 1989; Kukathas and Pettit, 1990; Kukathas, 2003). Again, there has been a lot of work, inspired by the framework if not always the vision of the book, on matters that are identified as important there but are not treated in any detail. There has been a growing amount of research on issues of international justice, for example (Beitz, 1979); intergenerational justice (Parfit, 1984); and criminal justice (Braithwaite and Pettit, 1990). Pre-eminent amongst such studies is the extended work by Joel Feinberg on *The Moral Limits of the Criminal Law* (1988).

Rejection

The period since *A Theory of Justice* has been dominated by two more dramatic sorts of reactions to the book: on the one hand, reactions of rejection; on the other, reactions of radicalization. The reactions of rejection come in two varieties. The reactions in the first category represent positions on matters of political philosophy that remain broadly analytical in character and connection. Usually they argue that the sort of ideal depicted in *A Theory of Justice* is undesirable; it is not the sort of thing we ought to be after in designing our institutions. The reactions in the second category connect, on the whole, with non-philosophical or at least non-analytical traditions of thought. They argue that the enterprise of *A Theory of Justice* is infeasible in some way; its methods or its ideals are just not capable of being followed through.

Among reactions of the first kind, Robert Nozick's *Anarchy, State and Utopia* (1974) is outstanding (Paul, 1981). Nozick points out that Rawls's conception of justice is primarily non-historical. He means that how things are to be distributed among people in a society is to be determined, under the theory, not by reference to where the things originated – not by reference to who made them, who exchanged them, and so on – but rather by reference to the aggregate patterns that different distributions represent: in particular, by reference to which distribution will do best by the worst-off in the society. As against this, he makes two main points. First, he argues that Rawls's conception is unrealistic in treating the goods to be distributed as if they were manna-from-heaven. 'Isn't it implausible that how holdings are produced and come to exist has no effect at all on who should own what?' (Nozick, 1974, p. 155). And he argues, second, that enforcing Rawls's two principles, like enforcing a socialist regime, would require constant monitoring of the exchanges between people and constant interference and adjustment. 'The socialist society would have to forbid capitalist acts between consenting adults' (ibid., p. 163).

Largely in reaction to Rawls's vision, as indeed he admits, Nozick elaborates a libertarian alternative to the two-principles theory. He begins by postulating certain rights, roughly of a kind with the rights recognized by Locke in the seventeenth century, and he then looks into what sort of state is compatible with those rights. 'Individuals have rights and there are things no person or group may do to them (without violating their rights)' (Nozick, 1974, p. ix). Each right is a constraint on how others, in particular the state, may treat the bearer: it constrains others not to treat the bearer in fashion X – say, not to interfere with his or her freedom of movement or association or speech – even if treating the bearer in that way would reduce the level of X-treatment of others by others. Each right is a more or less absolute constraint, in the sense that short of catastrophic horror, it cannot be infringed for the sake of promoting some social good like equality or welfare. And each right is a fundamental constraint, in the sense that the satisfaction of the right is a good in itself, not something that is good in virtue of promoting an independent goal.

This libertarian assertion of Lockean rights naturally generates a different, and more distinctively historical, conception of justice in holdings from that which Rawls defends. It means that the justice of holdings will depend on who had the things in question in the first place and on how they were transferred to others (Nozick, 1974, pp. 150–3). But a traditional problem with the libertarian assertion of rights is that it may seem to rule out the moral permissibility of a state of any kind. Every state must tax and coerce, claiming a monopoly of legitimate force, and so apparently it is bound to offend against libertarian rights. Nozick's book may remain important, not so much for its criticisms of Rawls – these depend on some questionable representation (Kukathas and Pettit, 1990) – but for the resolution that it offers for this long-standing difficulty.

Nozick presents an ingenious, though not wholly conclusive, argument that if people were committed to respecting rights, and if they were disposed to act in their rational self-interest, then in the absence of a state they would take steps which, little by little, would lead to the establishment of a certain sort of state. 'Out of anarchy, pressed by spontaneous groupings, mutual protection associations, division of labour, market pressures, economies of scale, and rational self-interest, there arises something very much resembling a minimal state or a group of geographically distinct minimal states'

(Nozick, 1974, pp. 16–17). Given this argument, Nozick holds that libertarians can endorse the minimal state: the state which is limited in function to the protection of its citizens against violence, theft, fraud and the like. And absent any parallel argument for the more-than-minimal state – say, the redistributive state envisaged by Rawls – he holds that this is all that libertarians can endorse.

I mentioned Nozick as the outstanding example of a reaction of rejection to Rawls that remains tied to analytical philosophy. The Nozickian reaction is tied to the idea of rights, to which he gave a new currency among analytical and other thinkers (Lomasky, 1987; see too Waldron, 1984; Frey, 1985). Other negative reactions to Rawls that stay within the analytical camp are organized around different but still more or less familiar ideas (see Miller, 1976). The idea of utility has remained a rallying point for well-known figures like R. M. Hare, John Harsanyi, Richard Brandt and Peter Singer, and it has provided a starting point for a number of newer studies (Griffin, 1986; Hardin, 1988; see too Sen and Williams, 1982). The idea of deserts has focused a further variety of opposition (Sadurski, 1985; Sher, 1987; Campbell; 1988). The idea of autonomy or self-determination, itself a theme in Rawls, has been widely explored, with different lessons derived from it (Lindley, 1986; Raz, 1986; Young, 1986; Dworkin, 1988) And the idea of needs has served as yet another focus of opposition (Braybrooke, 1987; Wiggins, 1987). Finally, and perhaps most importantly, the idea of equality has been reworked in different ways by a number of thinkers, all of whom distance themselves in some measure from the Rawlsian orthodoxy (Dworkin, 1978; Sen, 1986; Cohen, 1989; Kymlicka, 1990; Nagel, 1991). This work has included work displaying a decidedly socialist or Marxist stamp (Roemer, 1988; Miller, 1989).

So much for reactions of rejection that stay within the analytical camp. There have also been reactions to *A Theory of Justice* that point beyond the analytical way of thinking and that have served to connect with other traditions of political theory. These reactions have not served to question the desirability of the two-principles ideal but, more fundamentally, the feasibility of any such theory of justice. One reaction of this kind is associated with the economist F. A. von Hayek (1982), who argues that implementing a Rawlsian view of justice, or indeed any redistributive conception, would require a sort of information that is never going to be available to central government (Barry, 1979; Gray, 1986; Kukathas, 1989). Another reaction in the same vein is the more recently voiced complaint that a Rawlsian theory is of little or no relevance in a world where states are deeply enmeshed in international networks of commerce and law and administration (Held, 1991). But the reactions of this kind that have made the greatest impact are associated with feminism and with communitarianism.

There are two feminist challenges that have been particularly emphasized in the literature since *A Theory of Justice*. One is that while a theory like Rawls's seeks to deal even-handedly with men and women, while it envisages a state that is gender-blind, the ideal projected in such a theory is bound to fail in practice: it is bound to prove infeasible. The reason invoked for this inevitable failure is that the sociology that implicitly informs the theory – for example, the assumptions as to what it is reasonable to expect of public office holders and committed citizens – systematically favours males. 'Men's physiology defines most sports, their needs define auto and health insurance coverage, their socially-designed biographies define workplace expectations and

successful career patterns, their perspectives and concerns define quality in scholarship, their experiences and obsessions define merit' (Mackinnon, 1987, p. 36).

The other challenge which feminists have often brought against Rawlsian theory rests on the claim that it assumes that there is a clear distinction between the public and the domestic arenas and that the business of the state is restricted to the public sphere. 'The assumption that a clear and simple distinction can be drawn between the political and the personal, the public and the domestic, has been basic to liberal theory at least since Locke, and remains as a foundation of much political theory today' (Okin, 1991, p. 90). The challenge issued on the basis of this claim is that by neglecting the domestic sphere a theory like Rawls's is bound to fail in its own aspiration to articulate what justice requires; it is bound to overlook the subordination and the exploitation of women in the domestic sphere (Pateman, 1983). The personal is the political, so it is alleged, and any theory that fails to appreciate that fact cannot articulate a feasible ideal of justice.

Communitarians do two things. They argue for the desirability of community, social involvement and political participation (Buchanan, 1989). And, more importantly, they offer critiques of the sort of political philosophy which Rawls is taken to epitomize. For communitarians Rawlsian political philosophy exemplifies, above all, a type of approach that abstains from asserting the inherent superiority or inferiority of any particular conception of the good life (Rawls, 1971, pp. 447–8). The sort of state it countenances is recommended in abstraction from any particular view of the good life, so Rawls claims, and the sort of state endorsed is meant to operate without favouring such a view. Communitarian challenges are usually cast as challenges to any theory that resembles Rawls's in this normative abstraction, this ethical neutrality. Such neutral theories are often described, in recent usage, as liberal theories of politics (Barry, 1990, p. li; Kymlicka, 1990, pp. 233–4). Communitarians prefer a theory of politics in which the state endorses the conception of the good life that is tied up with the community's practices and traditions. They prefer a politics of the common good, as it is sometimes put, to a politics of neutrality.

There are three broadly communitarian critiques that I will mention (for a survey see Gutman, 1985; Buchanan, 1989; Kymlicka, 1990; Walzer, 1990). One argues that effective political debate has got to be conducted in the currency of meanings, in particular evaluative meanings, that exists in the local society and that any theory that tries to abstract from such meanings, as a neutral theory must allegedly do, will not yield a feasible ideal of the state: an ideal that can be expected to command the allegiance of ordinary folk (Walzer, 1983). Under the meanings shared in our society, it might be argued, it is fine for ordinary goods and chattels to be distributed on market principles but not intuitively all right for emergency medical care to be made available on that basis; the culturally given categories embody normative expectations of a kind that any credible and workable political philosophy must respect.

A second communitarian challenge is directed to the ideal implicit in the neutral, liberal image of the state: the ideal of a self that chooses the sort of person to be, picking from among the options that are made available under the meticulously neutral framework provided by the state. The claim is that this ideal is empty and unrealizable and, once again, that a political philosophy that is built around such an ideal cannot effect a grip on people's imagination. The fact is, so the argument goes, that moral choice is always a matter of self-discovery, in which the self unearths the culturally given

commitments that define and constitute it. Only a political philosophy that identifies and reinforces those sorts of commitments can have a hope of being workable (MacIntyre, 1981; Sandel, 1982).

The third communitarian challenge endorses a version of the liberal ideal of the self-determining subject. It argues, first, that in order to achieve such autonomy, people need to be culturally provided with appropriate concepts and ideals, or that they need to have the opportunity for public debate about such matters, or whatever; and second, that the neutral, liberal state is constitutionally incapable of furnishing such resources, so that it makes the very ideal it fosters unreachable (Taylor, 1985; Raz, 1986). There are many variations on this argument, as there are on the other communitarian claims, but the general idea should be clear: the realization of the liberal ideal is not possible under the neutral, liberal state; it requires a state that is prepared to be assertive about the conception or conceptions of the good life that are allegedly associated with the given community and culture.

Feminist and communitarian challenges allege that Rawlsian theory, and any theory in its general image, is sociologically uninformed and, consequently, that its prescriptions are infeasible; they may do for the ciphers conjured up in the philosophical armchair but they will not work for ordinary, culturally situated human beings. Such approaches would lead us away from how analytical philosophers do political philosophy and into the richer pastures seeded by this or that sociological theory. Analytical philosophers have not been hugely disturbed, it must be said, by these attacks. The general line has been that if good points are made in some of the criticisms offered, they are points that can be taken aboard without giving up on the enterprise of analytical political philosophy, Rawlsian or otherwise (Larmore, 1987; Buchanan, 1989; Macedo, 1990; Kukathas and Pettit, 1990, ch. 5; Kymlicka, 1990, chs 6 and 7).

Radicalization

I have discussed the reactions of rejection to *A Theory of Justice*. In order to complete this historical sketch I need also to mention the category of responses that I describe as reactions of radicalization. There are two methodological novelties in *A Theory of Justice*, associated respectively with the method of reflective equilibrium and the contractual method. The method of reflective equilibrium has attracted a good deal of support and has sometimes been consciously extended in ways that go beyond Rawls. One sort of extension is the method of argument – we might call it the method of dialectical equilibrium – whereby a thinker establishes firm intuitions about what is right in a given area and then shows that in consistency they should also apply, however surprising the results, in areas that are somewhat removed from the original one (Nozick, 1974; Goodin, 1985). That type of extension can be seen as a radicalization of the Rawlsian approach. But radicalization of the Rawlsian approach has been pursued much more widely and systematically in relation to the other methodological novelty in *A Theory of Justice*: the use of the contractual method.

I said above that for Rawls the contractual method is a method of discovery that complements the method of justification by reflective equilibrium. Rawls is interested in identifying just or fair institutions; he argues that such institutions are the ones that would be chosen in a just or fair procedure and he then constructs the original position

contract as a procedure with a good claim to be fair. The fact that the two principles would be chosen in the original position, as he thinks they would, is as good an indication as we are going to get that the principles are fair; it shows, for all relevant purposes, that they are fair. 'The fairness of the circumstances transfers to fairness of the principles adopted' (Rawls, 1971, p. 159).

The radicalization of Rawls's contractual method casts a hypothetical contract of the kind instantiated in the Rawlsian approach in a more radical role than that which is strictly envisaged in *A Theory of Justice*. Consider the contractarian property of a set of institutions or principles, which consists in the hypothetical fact that they would be chosen under appropriate circumstances. The fact that the two principles possess that property is a sign that they are fair, under Rawls's way of thinking, but it is not of their essence: fairness or rightness is not defined by that property, at least to begin with (Rawls, 1971, p. 111); fairness or rightness is independently defined as the target we want to track and the contractarian property is identified as a useful tracker. The radicalizations of Rawls resist this merely heuristic construal of the contractual method. They say that the very notion of what it is to be politically right is, or ought to be, nothing more than the notion of what would be contractually chosen in appropriate circumstances. They claim that the contractarian property constitutes rightness rather than merely tracking it.

In Plato's *Euthyphro*, Socrates asks whether something is holy because the gods love it or whether the gods love it because it is holy. The issue between Rawls – or at least Rawls of *A Theory of Justice* – and more radical contractarians has to do with a parallel issue (Pettit, 1982). If a set of institutions or principles is contractually eligible, if it is such as would be chosen in a suitable contract, is that because they are right – because they satisfy some independent criterion of rightness – as in the Rawlsian, heuristic view? Or are they right because they would be the object of contract, as in the view that takes rightness to be constituted by contractual eligibility?

The radical contractarians who have dominated political philosophy since the publication of Rawls's book divide, broadly, into two camps. The one camp casts the contract in an economic image, as a procedure of striking a bargain; the other takes it in a more political way, as a process of reaching deliberative conviction and consensus (Kukathas and Pettit, 1990, p. 32; see too Barry, 1989, p. 371; Hamlin, 1989). Under the economic interpretation, the upshot of the contract is treated as something that is to the mutual advantage of parties whose relevant beliefs and desires are formed prior to exchange with one another; the contract represents a reciprocal adjustment that is in everyone's interest, not an exchange in which anyone tries to influence the minds or hearts of others. Under the political interpretation, the upshot of the contract is treated as a more or less commanding conclusion: as something that each is led to endorse under reasoning – say, reasoning about common interests – that survives political discussion, collective or otherwise, and that elicits general allegiance.

Something like the economic version of contractarianism had been explored prior to *A Theory of Justice* by two economists, James Buchanan and Gordon Tullock (1962). They argued, roughly, that the right set of principles for a society is the set that would be unanimously preferred. This approach operationalizes a static criterion of what is to the mutual advantage of parties and in recent discussions it has been eclipsed by the sort of economic contractarianism developed in the work of David Gauthier (1986).

Under Gauthier's approach, the right principles for ordering a society are those on which rational bargainers would converge under circumstances that it would be rational of them to accept as a starting point for bargaining. Gauthier develops a theory of rational bargaining in the course of advancing his contractarian vision and, applying that theory, he is led to argue for a more or less minimal state. In exploring this approach he claims to resolve a type of bargaining problem that Rawls had described as 'hopelessly complicated'. 'Even if theoretically a solution were to exist, we would not, at present anyway, be able to determine it' (Rawls, 1971, p. 140).

There are traces of economic contractarianism in *A Theory of Justice* and the book undoubtedly served as a stimulus for people like Gauthier. But the political reading of the contractual method is probably more in the spirit of Rawls. The parties involved in a bargain take their own reasons for preferring one or another outcome as given and they are impervious to any reasons that others may offer for rethinking their preferences. They have no care for what other parties believe or want and are disposed, if let, to impose their own wishes on others; when they settle for anything less, that is because that is the best they can squeeze out of their fellow-bargainers. Under the political version of contractarianism, the parties are cast in a very different light. They are conceptualized as persons who each wish to find a structure on which all can agree, seeking out the intellectually most compelling candidate.

A political version of contractarianism is to be found in the work of the German thinker, Jürgen Habermas (1973); he argues that the best structure for society is that which would be supported by people involved in collective debate under ideal conditions of speech, where all are equal, each has the chance to speak and each has the opportunity to question the assertions of others. In English-speaking circles, the most influential contributions have come from Bruce Ackerman (1980) and T. M. Scanlon (1982; 1998). The general approach has also been endorsed by Brian Barry (1989).

Ackerman (1980) suggests that the best sort of state, the best social structure, is by definition the kind of arrangement that would be supported in neutral dialogue: in dialogue where no one is allowed to assert either that their conception of the good is better than that asserted by others or that they are intrinsically superior to any of their fellows. Scanlon (1982, p. 110) argues that the best basic structure will be characterized, at least in part, by 'rules for the general regulation of behaviour which no one could reasonably reject as a basis for informed, unforced general agreement'. These formulae are each meant to catch a guiding idea for further exploration and argument.

The political contractualism that I have associated with Scanlon and Ackerman has also been important in prompting the development over recent years of the ideal of deliberative democracy (Cohen, 1989; Gutmann and Thompson, 1996). The ideal is that actual institutions should be organized at different decision-making sites so that participants are encouraged or even required to deliberate with others about what is for the good of all; and that they should cast their votes according to their judgement on what is best, not according to their personal preferences over possible results (Bohman and Rehg, 1997; Elster, 1998; Fishkin and Laslett, 2003).

We have discussed the long silence of analytical political philosophy in the early part of the century; the break in that silence with the books published by Benn and Peters

(1959), Hart (1961) and especially Barry (1965); the new era introduced with Rawls's publication of *A Theory of Justice* in 1971; the reactions of rejection to that book, analytical and non-analytical: in particular, communitarian and feminist; and the reactions of radicalization that the book occasioned, with new developments in contractual thinking, economic and political. While the account offered is necessarily selective, even schematic, it may help to give some sense of the recent history of analytical political philosophy. I would now like to turn to more speculative and controversial matters. I want to offer a picture of the most important assumptions that analytical philosophy has bequeathed, for good or ill, to normative political thinking.

Analytical Political Philosophy: the Legacy

There are two distinct areas where normative questions arise, according to the lore of analytical philosophers: in the theory of the good, as it is called, and in the theory of the right. The theory of the good is the theory in which we are instructed on what properties, in particular what universal properties, make one state of the world better than another; we are instructed on what properties constitute values, specifically impersonal values that do not refer to any particular individuals or indeed any other particular entities. Utilitarianism offers a theory of the good according to which the only property that matters in the ranking of states of the world is the happiness of sentient creatures. The theory of the right, on the other hand, is the theory in which we are told what makes one option right and another wrong, among the options in any choice; the choice may be a personal decision among different acts or a social decision among different basic structures. Utilitarianism is a theory of the right to the extent that it identifies the right option in any choice as that which suitably promotes happiness: that which suitably promotes the good.

The analytical tradition of thinking bequeaths distinctive assumptions in both of these areas, assumptions that bear intimately on political matters. In the theory of the good it has tended, more or less unquestioningly, to support certain substantive constraints on the sorts of properties that can be countenanced as political values. And in the theory of the right it has generated a set of distinctions around which to taxonomize different possible approaches to questions about what institutions to prefer. I will deal first of all with assumptions in the theory of the good and then with assumptions in the theory of the right. As will become clear, I think that the contribution of analytical philosophy to political thinking is rather different in the two areas. The received analytical theory of the good is a contribution of dubious worth, at least in one respect, serving to constrain political thought rather than liberate it. The analytical theory of the right is a contribution of positive merit and political thought is the better for taking the relevant analytical distinctions on board.

Theory of the good

There are two elements in the received analytical assumptions about the theory of the political good. The first is a universalist form of personalism, as I shall describe it, and the second a valuational solipsism. Personalism is a plausible working assumption in

political philosophy but it has often been distorted by association with the solipsist thesis.

Personalism is the assumption that whatever is good or bad about a set of institutions is something that is good or bad for the people whom they affect. The fact that a set of institutions is allegedly in accordance with God's will; the fact that it is the set that best preserves a certain culture or language; the fact that it is the set of institutions that puts least strain on the natural environment: these features allegedly count for nothing, except so far as they are associated with a benefit to individuals. It will be important that the institutions fit with allegedly divine decrees if that means that people will benefit from a consequent harmony of doctrine; it will be important that they preserve a culture or language if this means that people will enjoy a consequent solidarity of association or a plurality of options; it will be important that they reduce the strain on nature if people are likely to benefit in some way, at some stage, from the enhanced environment. But, considerations of this kind apart, political philosophy need not look to how institutions would answer on these counts.

Personalism is not likely to be resisted on the grounds that it challenges theocentric visions of politics. It may well be resisted on environmental grounds but here the conflict is either of minor practical import or it can be accommodated by a slight shift of commitments. Many environmental measures that are likely to be prized independently of their impact on human beings – measures to do with preserving other species or preserving wildernesses – are arguably for the good of people, though perhaps only in the very long term. And if there are attractive measures for which this does not hold, then they can be accommodated by stretching personalism to encompass the good of the members of certain other species.

Personalism is primarily designed as a form of opposition, not to environmentalism, or even to theocentrism, but to the belief that nations or cultures or states or societies, or corporate entities of any kind, have interests that transcend the interests of individuals. According to such a belief, such an institutional anti-personalism, it may be right to introduce a political measure, even when that measure does not make any people better off, even indeed when it makes some people worse off. Specifically, it may be right to do this, because of how the measure affects some supra-personal, corporate entity.

Personalism rejects such institutionalism, arguing instead that the only interests that are relevant in the assessment of politically variable arrangements are the interests of those present or future people who may be affected by the arrangements; it is usually assumed that the dead do not have interests or that their interests do not count. Imagine two societies in which the interests of individuals are equally well served but where certain corporate entities fare differently – if that is possible. The personalist claims that there is no ground for ranking the arrangements in either of those societies above the other; if affected individuals fare equally well – however that is judged – then the arrangements have to count as equally good. Perhaps one set of arrangements is aesthetically more attractive than the other, and perhaps it is ranked above the other on those grounds. But that sort of ranking, so the personalist will claim, is not strictly a ranking in political philosophy. From the point of view of political philosophy, the only considerations that should be taken into account are considerations about how individuals fare.

Jeremy Bentham (1843, p. 321) sums up the personalist credo nicely: 'Individual interests are the only real interests. Take care of individuals; never injure them, or suffer them to be injured, and you will have done well enough for the public.' The thesis is also to be found, more or less explicitly, in *A Theory of Justice*: 'Let us assume, to fix ideas, that a society is a more or less self-sufficient association of persons who in their relations to one another recognize certain rules of conduct as binding and who for the most part act in accordance with them. Suppose further that these rules specify a system of cooperation designed to advance the good of those taking part in it' (Rawls, 1971, p. 4). Given this view of society, Rawls naturally thinks that the normative question with a basic structure is how well it answers to those individuals whose good it is supposed to advance. The personalist assumption has been explicitly noted by a number of authors but it generally goes without saying in analytical circles (see Raz, 1986; Hamlin and Pettit, 1989; Broome, 1990; 1991, ch. 8).

But in ascribing personalism to the broad tradition of analytical philosophy, we need to be clear that the personalism ascribed is universalist in character. It holds that not only are persons the only entities that ultimately matter in politics, all persons matter equally. Consistently with personalism, strictly formulated, we might have said that the good of the King or Queen or the good of some class or caste is all that matters. But the universalist twist blocks this possibility. The commitment is nicely caught in a slogan attributed to Bentham: 'Everybody to count for one, nobody for more than one' (Mill, 1969, p. 267).

If personalism has been systematically challenged, at least in its anti-institutionalism guise, that has probably occurred only within the more or less Hegelian tradition of continental thinking. But this claim may be resisted. Isn't personalism opposed, less dramatically, to the sort of communitarianism that argues that a state ought to endorse and further the conception of a good life associated with the local culture? At the least, isn't it opposed to the sort of communitarian doctrine that argues that communal solidarity and rootedness is itself a good that ought to be furthered by the state? More generally, indeed, isn't it opposed by any theory that argues that what the state ought to value and advance is a property, not of individuals, but of aggregates of individuals?

Personalism is not opposed, despite appearances, to doctrines of these kinds. The personalist assumption is that if institutions are good or bad, then they are good or bad for individuals. Even if a conception of the good life is associated with a received culture, and is not endorsed by all individuals, it may be a personalist conception; it may represent the way of life as good, because of the alleged good it does for individuals. For example, a traditional, religious conception of the good life may represent a certain way of life as good for the salvation of individuals. Again, even if the valued properties that a state promotes are properties of groups rather than individuals – properties like solidarity – they may be valued for the good which their realization involves for individuals. Solidarity may not be prized in itself, as it were, but on the grounds that it is good for individuals to belong to a solidaristic community.

I said that the personalism of the analytical tradition usually goes without saying. No one makes much of it, since it is taken to be more or less obvious. But there is one exception to this theme that is worth mentioning in passing. Ronald Dworkin draws attention to the personalist commitment, in arguing that all plausible, modern political

theories have in mind the same ultimate value, equality (Dworkin, 1978, pp. 179–83; see too Miller, 1990). For what Dworkin means is not that each theory argues for the equal treatment of individuals but only, as he puts it, that every theory claims to treat all individuals as equals. No one is to count for less than one, and no one for more than one.

Dworkin's claim is worth remarking. It is sustained by the Benthamite observations which I have mentioned – it has a personalist core – but it goes considerably further than those observations. Dworkin holds, in effect, that every plausible political theory countenances the same value and, more specifically, the same fundamental right: the right of each individual to be treated as an equal with others. This claim would be of great interest, for it suggests that there is more unity than first appears in the variety of political theories that we should take seriously: it suggests that they are all egalitarian philosophies. The observation would be of great significance. If it holds, then all political theories can be assessed in a common egalitarian currency, for how well they do in interpreting the demand to treat individuals as equals (Kymlicka, 1990, p. 4).

This is not the place to explore Dworkin's claim. Suffice it to mention that, however attractive and plausible, the priority of the value of treating individuals as equals does not follow just from the personalist claim that whatever is of value in political institutions, it is something that is of value from the point of view of the persons affected and, moreover, from a point of view that does not necessarily privilege any particular individuals over others. The personalist constraint leaves it open whether what is of value is utility or fairness or opportunity or whatever; that question is to be determined independently of any concern with equality, even though the constraint requires that no one be particularly privileged in how the selected value is advanced. The constraint does not entail that the good must be seen as a persuasive interpretation of what it is to treat individuals as equals. And certainly it does not entail that the good must be such that when the state advances it, then it can be adequately and usefully characterized as honouring the right of individuals to be treated as equals.

Personalism is a plausible and harmless working assumption in political philosophy. Or so it seems to me. But the analytical tradition has also bequeathed a second, more specific assumption to the theory of the political good and this proposition is anything but harmless. Up until very recent times it has had a warping impact on analytical thinking about politics: in effect, on the English-speaking, political-theoretic tradition of the past couple of hundred years. I describe this second assumption as one of valuational solipsism.

The word 'solipsism' derives from *solus ipse*, the lone self. The assumption of valuational solipsism is the assumption that any property that can serve as an ultimate political value, any property that can be regarded as a fundamental yardstick of political assessment, has to be capable of instantiation by the socially isolated person: by the solitary individual. It is the assumption that the ultimate criteria of political judgement – the reserve funds of political debate – are provided by non-social as distinct from social values. A value will be social just in case its realization requires that there are a number of people who are intentionally active in certain ways: in effect, that there are a number of people who are intentionally involved with one another. A value will be non-social just in case it can be enjoyed by the wholly isolated individual, even by the lone occupant of a world.

There are a great variety of social values that are invoked in discussions of politics. They cover the goods enjoyed by people in intimate relations and the goods that they enjoy in the public forum. Such goods include family and friendship, fraternity and citizenship, status and power, protection and equitable treatment and participation. Social values also include goods that do not inhere in individuals, but in the institutions that individuals constitute; the personalist can countenance such values too, as we have seen, for their realization will have an impact on the well-being of persons. These sorts of social values include cultural harmony, social order, political stability and the rule of law.

There are also a variety of non-social values that are invoked in discussions of politics. Material welfare is an obvious example, since it is clear that the isolated individual may logically enjoy that sort of good without any involvement with other people. Another example is happiness or utility, in the sense in which this is associated, as it is in the utilitarian tradition, with the balance of pleasure over pain or the absence of frustrated preferences and desires. A third example is liberty in the more positive sense in which it requires, not just the absence of interference by others, but also a high degree of psychological autonomy or self-mastery.

Apart from clearly social and clearly non-social values, there are also some values invoked in political discussion that can be interpreted either way. A good example here is the value of equality. This may be understood as an active sort of equality that presupposes that people are intentionally involved with one another and that requires that they recognize one another as equals in certain ways: say, as equals before the law or as equals in social status. Alternatively, it may be taken in a purely passive mode, as a value that someone may enjoy relative to others with whom she has no dealings whatsoever or a value that someone might even enjoy in total isolation. A person will be equal in this respect just so far as there is no one who has more: this, because there are others elsewhere and they have no more than she or because it is not the case that there are others anywhere else. We might describe this sort of equality as natural equality and contrast it with the civic equality that involves people in active recognition of one another as equals.

What holds of equality holds equally of liberty. Under one sense of liberty, it means civic liberty. This is a value that a person will enjoy so far as there are others around and they accord her the treatment that liberty requires; they recognize and thereby empower the person in the manner and measure that gives her the title of a free person: in the old usage, a freeman as distinct from a bondsman. But as equality may be taken in a civic or natural sense, so the same is true of liberty. For it can also mean the value that someone enjoys so far as there is no one else who denies the person the treatment that freedom is thought to require. A person can enjoy freedom in that passive and natural sense when there are others around but they are elsewhere or there are no others around, period.

Analytical political philosophy has been traditionally committed, not only to personalism, but also to solipsism. Among the many different strands of radical political thought that emerged within that tradition in the nineteenth century, all of them tended to emphasize distinctively non-social values as the ultimate criteria of judgement. Most appealed to utility as the basic good of individuals, taking utility to be determined by the balance of pleasure or the absence of frustrated desire. Failing that,

they appealed to the enjoyment of natural liberty, or the realization of a degree of personal autonomy or the attainment of a certain level of material welfare. This is a particularly striking feature in the tradition, given that there were many factors that might have been expected to lead the tradition towards the articulation of certain social values as the basic terms of political evaluation.

Democracy became a rallying point for many radicals in the tradition, for example, yet few of them thought of democratic participation or the democratic resolution of differences – the achievement of public deliberation – as a fundamental criterion of political assessment: democracy was valuable, if at all, for its effects in the space of other values. Thus William Paley could argue in 1785, and Isaiah Berlin in 1958, that democracy might or might not score better than a benevolent despotism in the space of natural liberty, a value that each of them prioritized (Paley, 1825; Berlin, 1958). Again, the rule of law was hailed by all as one of the great features of English common law institutions but no one advanced the rule of law as an ultimate value by which to judge a system; on the contrary, the fashion among radicals like Bentham was to see law as a mixed good, as a form of interference that was justified, if at all, by the other forms of interference that it inhibited. Finally, although the chartist and trade union movements emphasized the importance of solidarity and comradeship, none of the theorists of those movements ever really argued that whether such a value would be realized was a basic test to administer in assessing a proposed political arrangement. Socialism may have pushed many thinkers in that direction but mostly the push was resisted.

Consider how different were the approaches to politics that emerged in the same period in continental circles. Think of Rousseau on the general will and on the value of popular sovereignty. Think of Herder on the cultivation of the self in relation to the *Volksgeist*. Think of Kant on the kingdom of ends or Hegel on the realization of *Geist* in the world. Think of juridical ideals like that of the *Rechtstaat* or sociological ideals like the overcoming of *anomie*. In all of these cases we see a spontaneous tendency to assume that the basic values for the assessment of political structures are essentially social in nature. There is no evidence of the imperative that ruled English-speaking, analytical circles: the imperative to go back to properties that could be enjoyed even by a solitary individual in the search for basic political criteria.

There continue to be strains of solipsism in analytical political philosophy today, as communitarians and others often complain (Black, 1991, pp. 366–7). But it must be said that a number of recent developments have put solipsistic prejudices under pressure. Communitarian critics have undoubtedly had an impact on analytical thought and they have stressed the importance of the social goods associated with the enjoyment of community. Contractualists of a radical, political slant have also pushed in this direction, hailing the value of public justification as the ultimate yardstick of political acceptability (Gaus, 1990). And a further anti-solipsistic development has come with the adherents of radical or strong democracy, who think of the democratic resolution of various issues as a good in itself (Cohen and Rogers, 1983; Barber, 1984). This style of thinking has been developed in a particularly influential way by adherents of the ideal of deliberative democracy that we mentioned earlier.

Recent reconstruals of the value of freedom have also taken an anti-solipsistic turn. Those associated with the neo-republican movement have argued that liberty should

be understood, not as natural liberty, but as the sort of civic liberty that is available only in the presence of others, in particular others who accord the person what liberty requires. According to these authors, what liberty requires is non-domination (Pettit, 1997; Skinner, 1998; Viroli, 2002; Maynor, 2003; Laborde and Maynor, 2007). Free persons must be so protected and empowered – say, under the matrix of law, culture and politics – that others cannot interfere with them, not even the state itself, except on terms that they accept and are in a position to enforce.

Why should the analytical tradition have proved so resistant, over such a long period, to the idea that social values might offer the basic terms of political assessment? Why should it have tended to endorse, not just personalism, but solipsism? The main reason, I suggest, has to do with the social atomism that has characterized the tradition from its earliest days (Pettit, 1993).

The social atomist holds that the solitary individual – the agent who is and always has been isolated from others – is nevertheless capable, in principle, of displaying all distinctive human capacities. The anti-atomist or holist denies this, arguing that there is an intimate, non-causal tie between enjoying social relations with others and exercising certain distinctive human capacities. 'The claim is that living in society is a necessary condition of the development of rationality, in some sense of this property, or of becoming a moral agent in the full sense of the term, or of becoming a fully responsible, autonomous being' (Taylor, 1985, p. 191).

The issue between social atomism and holism turns around the issue of how far people depend – that is, non-causally or constitutively depend – on their relations with one another for the enjoyment of proper human capacities; we may describe this as a horizontal issue, as the relations in question are collateral, horizontal relations between people. The issue should be distinguished from the question that divides social individualism and collectivism, as I call the doctrines. That issue is a vertical question rather than a horizontal one. It bears on how far people's autonomy is compromised from above by aggregate social forces and regularities: individualists deny that there is any compromise whereas collectivists say that human beings are controlled or constrained in a way that diminishes their agency. Atomists and holists may agree that people are more or less autonomous subjects – that they conform to the image that we project in our ordinary psychological thinking about one another – while arguing about the extent to which their capacities as human subjects require social relations. I mention this point, as the philosophical tradition, analytical and otherwise, has tended to confuse atomism with individualism and holism with collectivism.

Social atomism became a prominent feature of contractualist theories, particularly that of Hobbes (1968), in the seventeenth century. The notion was that political and social order, if it was legitimate, had to be the product of some tacit contract between pre-social individuals. Such an atomistic picture was almost certainly encouraged by the discoveries of people who seemed to many Europeans to live more or less in the wild. Those discoveries nurtured the view that actual society must have evolved from a contract made by individuals in a state of nature. It may be no great accident that, in Charles Taylor's words, 'the great classical theorists of atomism also held to some strange views about the historicity of a state of nature in which men lived without society' (Taylor, 1985, p. 190).

The long tradition of philosophy from Aristotle had stressed that human beings are essentially social animals but holism only became a prominent philosophical doctrine as a reaction to atomism, among seventeenth- and eighteenth-century forerunners of German romanticism like Vico and Rousseau and Herder (Berlin, 1976). These were all thinkers who were familiar with the atomistic vision of individuals and society and they self-consciously emphasized a thesis that challenged such atomism. They held, first, that people were dependent on language for the capacity to think – a thesis, ironically, that first appeared with Hobbes (Pettit, 2007) – and, second, that the language on which they were dependent was essentially a social creation (Wells, 1987). They maintained that people depended on one another's presence in society to be able individually to realize what is perhaps the most distinctive human ability. Thus, for someone like Rousseau it was self-evident that society and language were required for thinking. This is what created for him the famous chicken-and-egg problem: 'which was most necessary, the existence of society to the invention of language, or the invention of language to the establishment of society?' (Rousseau, 1973, p. 63; see Wokler, 1987, ch. 4).

The romantic thesis that thought is dependent on language and that language is an essentially social creation came to fruition, perhaps over-ripened, in Hegel's notion of the *Volksgeist*: 'the spirit of a people, whose ideas are expressed in their common institutions, by which they define their identity' (Taylor, 1975, p. 387). It came thereby to influence a variety of thinkers, from Marx to Durkheim to F. H. Bradley, who all stressed the social constitution of the individual. They claimed that the individual's relations with her fellows were not entirely contingent or external; some of those relations were internal or essential, being required for the individual to count as a full person. As Bradley (1962, p. 173) puts it: 'I am myself by sharing with others, by including in my essence relations to them, the relations of the social state.'

Social atomism, in my view, is the principal reason why the analytical tradition has favoured valuational solipsism. Anyone who is an atomist is likely to take the possibility of the isolated individual to be a relevant alternative in radical political evaluation: in evaluation that covers all conceivable alternatives. It may be enough in casual political discussion to argue for the superiority of an arrangement over the status quo, and over the more salient alternatives, but in foundational thought the arrangement must also be shown to be superior to the lot of the isolated individual; otherwise, as the atomist sees things, the business of political evaluation will not be logically complete.

It is unsurprising, then, that the many thinkers in the atomist tradition have emphasized that the isolated individual gives us a relevant perspective on political arrangements. Although not required in strict logic to do so, they have implicitly or explicitly assumed that we should judge the attraction of political arrangements, at least in part, from the point of view of that individual: from the point of view, as it is often articulated, of a state of nature in which isolation is the norm. They have assumed, to put the matter otherwise, that part of the job of supporting any political arrangement is to show what there is in it for individuals who could logically have enjoyed a solitary existence instead: what there is about that arrangement that makes it superior for such individuals to a solitary existence.

Theory of the right

I have been discussing the legacy of the analytical tradition for thinking about the theory of the political good. It is time, finally, to consider the legacy of the tradition for thought about what is politically right. To have views about the politically good is to identify one or another property or set of properties as desirable in political institutions: in institutions that are susceptible to political shaping. It is to prize liberty or democracy or equality or whatever. But having such views is not yet enough to enable one to decide which institutions represent the right option for a given society; a theory of the good is not sufficient, on its own, to yield a theory of the right. The point becomes obvious in light of the now well-established analytical distinction between consequentialist and deontological theories of the right.

Suppose you think that the main or unique political good is what we called natural liberty: the good enjoyed by people, as the standard tradition has it, when they do not suffer interference from others in the pursuit of independent activities. What institutions ought you to regard, then, as politically right for a society? The consequentialist answer is, roughly, those institutions whose presence would mean that there is more liberty enjoyed in the society than would otherwise be the case: those institutions that do best at promoting liberty. The answer is rough, because this formula does not yet say whether promoting a property like liberty means maximizing its actual or expected realization; and, if the latter, whether the probabilities that should determine the expectation are subject to any checks. But we need not worry about such details here. The general point should be clear: that for a consequentialist whose only concern is liberty, the right institutions will be those with consequences that are best for liberty.

At first blush, it may seem that consequentialism is the only possible theory of the right. But a little thought will show that this is not so. Suppose that the society with which the consequentialist is concerned is one that contains a minority group of fanatical traditionalists, whose aspiration is to install an authoritarian government under which the values of a certain religion would be imposed, at whatever cost in bloodshed, on everyone in the community. Suppose that this means that the institutions that will best promote liberty must ban the meetings and activities of that group, otherwise the chances are too high that the group will grow in stature and eventually seize power. Suppose, in other words, that the consequentialist theory of the right will commit someone who prizes liberty above all else to the repression of a certain religious group. Does it still remain obvious in such a case that consequentialism is the proper theory of the right?

Many will say that for someone who prizes liberty above all else the right institutions are not those that promote liberty, and are not therefore those that would ban the minority group, but are rather the institutions that would testify suitably to the value of liberty. Testifying to the value in a case like this might mean rejecting the ban altogether or rejecting the ban short of some threshold of danger; more generally, it might mean having a concern at some threshold for the instantiation of a concern with liberty, even when this means that less will thereby be promoted than might otherwise have been the case. We may describe what is done in such a case, in a more or less intuitive way, as honouring the value of liberty as distinct from promoting it in an unconstrained fashion. To honour liberty under ideal conditions – under conditions

where there are no recalcitrant agents like the minority fanatics – will be to promote it there. But in the real world where other agents and agencies are bent on undermining liberty, honouring the value may mean failing to promote it: heroically failing to promote it, as it were.

The distinction applies to individual agents as well as to agencies like institutions and it also applies with a variety of values. Consider, for example, the difference between the consequentialist and the deontological pacifist. The consequentialist will want to do things, and to have others do things, that mean that in the long run the consequences will be best for peace; this may involve being prepared to wage or condone a war, provided that the war looks essential for the promotion of peace. The deontological pacifist, on the other hand, will want to pursue only peaceful activities and will want others to pursue only such activities; thus he will not be prepared to wage or condone any war, even a 'war to end all wars'. He will want to honour peace, not promote it: not promote it, that is, by any means.

The distinction between promoting and honouring a value is a version of the analytical distinction between having a consequentialist and a deontological attitude towards the value (Pettit, 1991; see Scheffler, 1988). That distinction has been carefully elaborated in analytical moral philosophy but it applies in political philosophy as well. It is a different distinction, it should be noticed, from that which John Rawls (1971, pp. 446–52) assumes when he argues for the priority of the right over the good. Rawls is anxious, not to stake out a deontological position, but rather to emphasize that the basic structure should be capable of neutral justification, without reference to the particular conceptions of the good life entertained among the population (Kymlicka, 1990). It is unfortunate that he should use the terminology of the right and the good to make this point.

The distinction between the consequentialist and the deontological theory of the right, in particular the political right, applies across the full spectrum of political values. With any value whatsoever we can distinguish between the consequentialist strategy of designing institutions so that the value is promoted by them and designing institutions so that the value is honoured by them. Take a personal value like equality or fairness or welfare; take a more communal value like democracy or the rule of law or public justification; take the value that is allegedly associated with the satisfaction of certain rights; or take even the contractarian value of a set of institutions that consists in the fact that it would be chosen under certain circumstances. With any such value – or with any weighted mix of such values – we can in principle distinguish between institutionally promoting the value and institutionally honouring it. We can identify the right institutions as those which give consequentialist countenance to the value or we can identify them with those that give it deontological countenance.

This point is well worth stressing as it is a lesson of analytical thought that is often lost in political theory. For example, many political theorists hail certain rights as being of great political importance, without making it clear whether the rights are to be honoured – whether, in Nozick's term, they are to be treated properly as constraints – or whether their satisfaction is to be promoted, if necessary by violation of the rights in certain cases (Nozick, 1974, p. 28). Again many political theorists invoke 'just deserts' as the main concern of the state in criminal justice, without saying whether the criminal justice system is to honour just deserts or to promote them. If the idea is

to promote the delivery of just deserts then this may call for the occasional exemplary sentence; if the idea is to honour that value then no such sentence will ever be permitted (Braithwaite and Pettit, 1990).

However, not only does political theory often ignore the distinction between the institutional promotion and honouring of a value; it also often misconstrues what is involved in having institutions that promote a value, and on this point too analytical philosophy has an important lesson to teach. The lesson was well expressed in an article in 1955 by John Rawls on ‘Two Concepts of Rules’ but it was implicit in much earlier writing and it has been reworked in many different forms over the past couple of decades (Brandt, 1979; Hare, 1982; Scheffler, 1982; Parfit, 1984; Railton, 1984; Johnson, 1985; Pettit and Brennan, 1986).

What Rawls brought out in his article is that if certain institutions are designed to promote a value, that does not necessarily mean that the agents of the institutions will be authorized to take the value into consideration in their various deliberations and to act in the way that promises to promote it best, by their lights. Consider a value like utility. It is not necessarily the case, as Rawls made clear, that the institutions that will best promote utility are those in which the agents make their decisions in a calculating, utilitarian way. For example, the criminal justice system that best promotes utility is not likely to be the one within which each judge acts in that way; it is more likely to be the ordinary sort of system under which each judge acts according to a specified brief: a brief that prohibits or at least limits utilitarian reasoning.

This point has been generally acknowledged within analytical, political philosophy but it does leave a problem in its wake that has not been given due attention. This is the problem of the zealous agent, as we might call it (Lyons, 1982; Braithwaite and Pettit, 1990). Suppose that a set of institutions is designed to promote a certain value X and that the agents of the institutions internalize that value and are zealously concerned about its promotion. Such agents will undoubtedly come across situations where by their own lights the best way to promote the value will be by going beyond their allotted brief. So what is there to restrain them from doing this? More generally, what is there to prevent zealous agents from undermining any institutions that seek to promote a certain goal and that seek to do so, in particular, without letting the agents of the institutions calculate in regard to those goals? The question requires careful consideration by consequentialists.

If my line of argument is correct, then all salient political theories fall into one of two categories: they are consequentialist theories which recommend the promotion of certain values or they are deontological theories which recommend the honouring of certain values: a concern at some threshold with instantiating a concern for the values, even when this means that promotion is thereby less than it might have been. But the line of argument is not uncontentious.

Ronald Dworkin (1978, pp. 172–3) suggests, for example, that a political theory will fall into one of three categories, rather than one of two: ‘Such a theory might be *goal-based*, in which case it would take some goal, like improving the general welfare, as fundamental; it might be *right-based*, taking some right, like the right of all men to the greatest possible overall liberty, as fundamental; or it might be *duty-based*, taking some duty, like the duty to obey God’s will as set forth in the Ten Commandments, as fundamental.’ It is easy to find examples of pure, or nearly pure, cases of each of these types

of theory. Utilitarianism is, as my example suggested, a goal-based theory; Kant's categorical imperatives compose a duty-based theory; and Tom Paine's theory of revolution is right-based.

How does our division into consequentialist and deontological theories measure up to this taxonomy? Consequentialist theories correspond to Dworkin's goal-based theories, so there is no problem of match there. But what is the connection between deontological theories and theories that are duty-based and right-based?

The connection is fairly straightforward. All deontological theories involve the recognition of obligations. If we say that a structure should be judged for how it honours a value like liberty or equality or respect, then we say that there is a set of response-types that are obligatory for any basic structure; there are certain intrinsically binding obligations that have to be countenanced by every such structure. This makes an important point of contrast with the consequentialist way of thinking, for on that approach the only matter of obligation is to promote the relevant goal and this may select one set of response-types in this society, a different set in another, and so on; there may be no intrinsically binding types of obligation.

The distinction between duty-based and right-based theories is a distinction between those deontological, obligation-involving theories that make the obligations primitive and those theories that hold that the obligations obtain because of the pre-existing rights of relevant individuals. The natural law tradition is probably the longest established school of thought within which obligations are represented as primitive (d'Entreves, 1970; Finnis, 1980). The tradition of natural rights, which developed in the seventeenth century, is the best-known school of thought to postulate rights as the source of all relevant obligations (Tuck, 1979). Rights get conceived of in that tradition as moral controls that individuals can exercise, activating obligations on the part of the state to respond appropriately to them.

In this last section I have distinguished between the theory of the political good and the theory of the political right and I have tried to identify the legacy of the analytical-philosophical way of thinking in each area. The theory of the good, with its combination of personalism and solipsism, is a mixed bag but the theory of the right, with the important distinctions between consequentialist and deontological stances, is of the greatest importance. Political theory has tended increasingly to become an independent teaching discipline and an independent area of research. Whatever the connection it maintains with the tradition of analytical philosophy, it would do well to retain the habits of intellectual precision manifested in such distinctions.

References

Ackerman, B.: *Social Justice in the Liberal State* (New Haven, Conn.: Yale University Press, 1980).

Arneson, R. J., ed.: 'Symposium on Rawlsian theory of justice: recent developments', *Ethics*, 99 (1989), 695–944.

Ayer, A. J.: *Language, Truth and Logic* (London: Gollancz, 1936).

Barber, B.: *Strong Democracy* (Berkeley, Calif.: Berkeley University Press, 1984).

Barry, B.: *Political Argument* (London: Routledge, 1965).

—: *The Liberal Theory of Justice: A Critical Examination of the Principle Doctrines in 'A Theory of Justice' by John Rawls* (Oxford: Oxford University Press, 1973).
—: *Theories of Justice* (London: Harvester-Wheatsheaf, 1989).
—: *Political Argument: A Reissue* (Brighton: Harvester 1990).
Barry, N.: *Hayek's Economic and Social Philosophy* (London: Macmillan, 1979).
Beitz, C.: *Political Theory and International Relations* (Princeton, NJ: Princeton University Press, 1979).
Benn, S. I.: *A Theory of Freedom* (Cambridge: Cambridge University Press, 1988).
Benn, S. I. and Peters, R. S.: *Social Principles and the Democratic State* (London: Allen & Unwin, 1959).
Bentham, J.: *The Works of Jeremy Bentham*, vol. 1 (Edinburgh: William Tait, 1843).
Berlin, I.: *Two Concepts of Liberty* (Oxford: Oxford University Press, 1958).
—: *Vico and Herder* (London: Hogarth Press, 1976).
Black, S.: 'Individualism at an impasse', *Canadian Journal of Philosophy*, 21 (1991), 347–78.
Bohman, J. and Rehg, W., eds: *Deliberative Democracy: Essays on Reason and Politics* (Cambridge, Mass.: MIT Press, 1997).
Bradley, F. H.: *Ethical Studies*, 2nd edn (London: Oxford University Press, 1962).
Braithwaite, J. and Pettit, P.: *Not Just Deserts: A Republican Theory of Criminal Justice* (Oxford: Oxford University Press, 1990).
Brandt, R. B.: *A Theory of the Good and the Right* (Oxford: Oxford University Press, 1979).
Braybrooke, D.: *Meeting Needs* (Princeton, NJ: Princeton University Press, 1987).
Broome, J.: 'Irreducibly social goods', in G. Brennan and C. Walsh, eds, *Rationality, Individualism and Public Policy* (Canberra: Anutech, 1990).
—: *Weighing Goods* (Oxford: Blackwell, 1991).
Buchanan, A. E.: 'Assessing the communitarian critique of liberalism', *Ethics*, 99 (1989), 852–82.
Buchanan, J. M. and Tullock, G.: *The Calculus of Consent* (Ann Arbor, Mich.: University of Michigan Press, 1962).
Campbell, T.: *Justice* (London: Macmillan, 1988).
Cohen, G. A.: 'On the currency of egalitarian justice', *Ethics*, 99 (1989), 906–44.
Cohen, J.: 'Deliberation and democratic legitimacy', in A. Hamlin and P. Pettit, eds, *The Good Polity* (Oxford: Blackwell, 1989), 17–34.
Cohen, J. and Rogers, J.: *On Democracy* (Harmondsworth: Penguin, 1983).
Daniels, N., ed.: *Reading Rawls* (Oxford: Blackwell, 1975).
Dworkin, G.: *The Theory and Practice of Autonomy* (Cambridge: Cambridge University Press, 1988).
Dworkin, R. M.: *Taking Rights Seriously*, 2nd impression (London: Duckworth, 1978).
Elster, J., ed.: *Deliberative Democracy* (Cambridge: Cambridge University Press, 1998).
d'Entreves, A. P.: *Natural Law*, revised edn (London: Hutchinson, 1970).
Feinberg, J.: *Doing and Deserving: Essays in the Theory of Responsibility* (Princeton, NJ: Princeton University Press, 1970).
—: *The Moral Limits of the Criminal Law*, 4 vols (Oxford: Oxford University Press, 1988).
Finnis, J.: *Natural Law and Natural Rights* (Oxford: Oxford University Press, 1980).
Fishkin, J. and Laslett, P., eds: *Debating Deliberative Democracy: Philosophy, Politics and Society*, vol. 7 (Cambridge: Cambridge University Press, 2003).
Frey, R. G., ed.: *Utility and Rights* (Oxford: Blackwell, 1985).
Gaus, G. F.: *Value and Justification* (Cambridge: Cambridge University Press, 1990).
Gauthier, D.: *Morals by Agreement* (Oxford: Oxford University Press, 1986).
Goodin, R. E.: *Protecting the Vulnerable* (Chicago, Ill.: Chicago University Press, 1985).
Gray, J. N.: *Hayek on Liberty*, 2nd edn (Oxford: Oxford University Press, 1986).

Griffin, J.: *Wellbeing: Its Meaning, Measurement, and Moral Importance* (Oxford: Oxford University Press, 1986).

Gutmann, A.: 'Communitarian critics of liberalism', *Philosophy and Public Affairs*, 14 (1985).

Gutmann, A. and Thompson, D.: *Democracy and Disagreement* (Cambridge, Mass: Harvard University Press, 1996).

Habermas, J.: 'Wahrheitstheorien', in *Wirklichkeit und Reflexion: Walter Schulz zum 60 Geburtstag* (Pfullingen: Neske, 1973).

Hamlin, A.: 'Liberty, contract and the state', in A. Hamlin and P. Pettit, eds, *The Good Polity* (Oxford: Blackwell, 1989).

Hamlin, A. and Pettit, P.: 'The normative analysis of the state', in A. Hamlin and P. Pettit, eds, *The Good Polity* (Oxford: Blackwell, 1989).

Hardin, R.: *Morality within the Limits of Reason* (Chicago, Ill.: University of Chicago Press, 1988).

Hare, R. M.: *The Language of Morals* (Oxford: Oxford University Press, 1952).

—: *Moral Thinking* (Oxford: Oxford University Press, 1982).

Harsanyi, J. C.: 'Cardinal utility in welfare economics and in the theory of risk-taking', *Journal of Political Economy* (1953).

—: 'Cardinal welfare, individualistic ethics, and interpersonal comparisons of utility', *Journal of Political Economy* (1955).

Hart, H. L. A.: *The Concept of Law* (Oxford: Oxford University Press, 1961).

Hayek, F. A.: *Law Legislation and Liberty: A New State of the Liberal Principles of Justice and Political Economy*, 3 vols (London: Routledge, 1982).

Held, D., ed.: *Political Theory Today* (Stanford, Calif.: Stanford University Press, 1991).

Hobbes, T.: *Leviathan*, ed. C. B. MacPherson (Harmondsworth: Penguin, 1968).

Johnson, C. D.: 'The authority of the moral agent', *Journal of Philosophy*, 82 (1985), 391–413.

Kukathas, C.: *Hayek and Modern Liberalism* (Oxford: Oxford University Press, 1989).

—: *John Rawls: Critical Assessments of Leading Political Philosophers*, vols 1–4 (London: Routledge, 2003).

Kukathas, C. and Pettit, P.: *Rawls: A Theory of Justice and Its Critics* (Cambridge: Polity Press, 1990).

Kymlicka, W.: *Contemporary Political Philosophy: An Introduction* (Oxford: Oxford University Press, 1990).

Laborde, C. and Maynor, J., eds: *Republicanism and Political Theory* (Oxford: Blackwell, 2007).

Larmore, C.: *Patterns of Moral Complexity* (Cambridge: Cambridge University Press, 1987).

Laslett, Peter, ed.: *Philosophy, Politics and Society*, series 1 (Oxford: Blackwell, 1956).

Lessnoff, M.: *Social Contract* (London: Macmillan, 1986).

Lindley, R.: *Autonomy* (London: Macmillan, 1986).

Lloyd Thomas, D. A.: *In Defence of Liberalism* (Oxford: Blackwell, 1988).

Lomasky, L.: *Persons, Rights and the Moral Community* (Oxford: Oxford University Press, 1987).

Lyons, D.: 'Utility and rights', *Nomos*, 24 (1982), 107–38.

Macedo, S.: *Liberal Virtues* (New York: Oxford University Press, 1990).

MacIntyre, A.: *After Virtue: A Study in Moral Theory* (London: Duckworth, 1981).

Mackinnon, C.: *Feminism Unmodified: Discourses on Life and Law* (Cambridge, Mass: Harvard University Press, 1987).

Maynor, J.: *Republicanism in the Modern World* (Cambridge: Polity Press, 2003).

Mill, J. S.: *Essays on Ethics, Religion and Society, Collected Works*, vol. 10 (London: Routledge, 1969).

Miller, D.: *Social Justice* (Oxford: Oxford University Press, 1976).

—: *Market, State, and Community: Theoretical Foundations of Market Socialism* (Oxford: Oxford University Press, 1989).

—: ‘Equality’, in K. Hunt, ed., *Philosophy and Politics* (Cambridge: Cambridge University Press, 1990).
Nagel, T.: *Equality and Partiality* (New York: Oxford University Press, 1991).
Nozick, R.: *Anarchy, State and Utopia* (Oxford: Blackwell, 1974).
Okin, S. M.: ‘Gender, the public and the private’, in D. Held, ed., *Political Theory Today* (Stanford, Calif.: Stanford University Press, 1991).
Paley, W.: *The Principles of Moral and Political Philosophy*, vol. 4, *Collected Works* (London: C. and J. Rivington, 1825).
Parfit, D.: *Reasons and Persons* (Oxford: Oxford University Press, 1984).
Pateman, C.: ‘Feminist critiques of the public–private dichotomy’, in S. I. Benn and G. F. Gaus, eds, *Public and Private and Social Life* (London: Croom Helm, 1983).
Paul, J., ed.: *Reading Nozick: Essays on Anarchy State and Utopia* (Oxford: Blackwell, 1981).
Pettit, P.: *Judging Justice: An Introduction to Contemporary Political Philosophy* (London, Routledge, 1980).
—: ‘Habermas on truth and justice’, in G. H. R. Parkinson, ed., *Marx and Marxisms* (Cambridge: Cambridge University Press, 1982).
—: ‘Consequentialism’, in P. Singer, ed., *A Companion to Ethics* (Oxford: Blackwell, 1991).
—: *The Common Mind: An Essay on Psychology, Society and Politics* (New York: Oxford University Press, 1993).
—: *Republicanism: A Theory of Freedom and Government*, publ. edn, with postscript, 1999. (Oxford: Oxford University Press, 1997).
—: *Made with Words: Hobbes on Mind, Society and Politics* (Princeton, NJ: Princeton University Press, 2007).
Pettit, P. and Brennan, G.: ‘Restrictive consequentialism’, *Australasian Journal of Philosophy*, 64 (1986).
Pogge, T. W.: *Realizing Rawls* (Ithaca, NY: Cornell University Press, 1989).
Popper, K.: *The Open Society and Its Enemies* (London: Routledge, 1945).
—: *The Poverty of Historicism* (London: Routledge, 1957).
Quine, W. V. O.: *Word and Object* (Cambridge, Mass.: MIT Press, 1960).
Railton, B.: ‘Alienation, consequentialism and morality’, *Philosophy and Public Affairs*, 13 (1984).
Rawls, J.: ‘Outline of a decision procedure for ethics’, *Philosophical Review*, 60 (1951), 177–97.
—: ‘Two concepts of rules’, *Philosophical Review*, 64 (1955), 3–32.
—: *A Theory of Justice* (Oxford: Oxford University Press, 1971).
—: ‘The priority of right and ideas of the good’, *Philosophy and Public Affairs*, 17 (1988), 251–76.
—: *Political Liberalism* (New York: Columbia University Press, 1993).
—: *The Law of Peoples* (Cambridge, Mass.: Harvard University Press, 1999).
—: *Justice as Fairness: A Restatement*, ed. E. Kelly (Cambridge, Mass.: Harvard University Press, 2001).
Raz, J.: *The Morality of Freedom* (Oxford: Oxford University Press, 1986).
Roemer, J.: *Free to Lose: An Introduction to Marxist Economic Philosophy* (Cambridge, Mass.: Harvard University Press, 1988).
Rousseau, J.-J.: *The Social Contract and Discourses* (London: J. M. Dent, 1973).
Sadurski, W.: *Giving Desert Its Due: Social Justice and Legal Theory* (Dordrecht: Reidel, 1985).
Sandel, M.: *Liberalism and the Limits of Justice* (Cambridge: Cambridge University Press, 1982).
Scanlon, T. M.: ‘Contractualism and utilitarianism’, in A. Sen and B. Williams, eds, *Utilitarianism and Beyond* (Cambridge: Cambridge University Press, 1982).
—: *What We Owe to Each Other* (Cambridge, Mass.: Harvard University Press, 1998).
Scheffler, S.: *The Rejection of Consequentialism* (Oxford: Oxford University Press, 1982).

—, ed.: *Consequentialism and Its Critics* (Oxford: Oxford University Press, 1988).
Sen, A. and Williams, B., eds: *Utilitarianism and Beyond* (Cambridge: Cambridge University Press, 1982).
Sher, G.: *Desert* (Princeton, NJ: Princeton University Press, 1987).
Sidgwick, H.: *The Methods of Ethics* (London: Macmillan, 1962).
Singer, P.: ‘Sidgwick and reflective equilibrium’, *The Monist*, 58 (1974).
Skinner, Q.: *Liberty before Liberalism* (Cambridge: Cambridge University Press, 1998).
Stevenson, C. L.: *Ethics and Language* (New Haven, Conn.: Yale University Press, 1944).
Taylor, C.: *Hegel* (Cambridge: Cambridge University Press, 1975).
—: *Philosophy and the Human Sciences: Philosophical Papers*, vol. 2 (Cambridge: Cambridge University Press, 1985).
Tuck, R.: *Natural Rights Theories* (Cambridge: Cambridge University Press, 1979).
Viroli, M. *Republicanism* (New York: Hill and Wang, 2002).
Waldron, J., ed.: *Theories of Rights* (Oxford: Oxford University Press, 1984).
Walzer, M.: *Spheres of Justice: A Defence of Pluralism and Equality* (Oxford: Blackwell, 1983).
—: ‘A critique of philosophical conversation’, *The Philosophical Forum*, 21 (1989–90), 182–96.
—: ‘The communitarian critique of liberalism’, *Political Theory*, 18 (1990), 6–23.
Weldon, T. D.: *The Vocabulary of Politics* (Harmondsworth: Penguin, 1953).
Wells, G. A.: *The Origin of Language* (La Salle, Ill.: Open Court, 1987).
Wiggins, D.: *Needs, Values, Truth* (Oxford: Blackwell, 1987).
Wokler, R.: *Rousseau on Society, Politics, Music and Language* (New York: Garland, 1987).
Wolff, R. P.: *Understanding Roles* (Princeton, NJ: Princeton University Press, 1977).
Young, R.: *Personal Autonomy: Beyond Negative and Positive Liberty* (London: Croom Helm, 1986).

Further reading

Brown, A.: *Modern Political Philosophy: Theories of the Justice Society* (Harmondsworth: Penguin, 1986).
Horton, J.: ‘Weight or lightness? Political philosophy and its prospects’, in A. Leftwich, ed., *New Developments in Political Science* (Aldershot: Gower, 1990).
Sterba, J.: *How to Make People Just: A Practical Reconciliation of Alternative Conceptions of Justice* (Totowa, NJ: Rowman and Littlefield, 1988).
Walzer, M., ed.: *The State of Political Theory*, Special Issue *Dissent* (Summer 1989).

Chapter 2

Continental Philosophy

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The Continental Tradition

The opposition between analytical and continental philosophy has something in common with that other, more worldly and now obsolete opposition between East and West. The observer of politics quickly realizes that 'East' and 'West' are ideological rather than geographical terms. The West is free and prosperous and celebrates human rights and the American way; the East has been totalitarian, stagnant and oppressive. Japan and Australia are for most purposes in the West, Cuba in the East. Similar anomalies beset our more philosophical dichotomy. There are obvious difficulties in the path of any straightforwardly geographical interpretation. Frege played a seminal role in the development of analytical philosophy despite being German; so did the Vienna Circle and Wittgenstein. On the other hand, there are obvious affinities between such British idealists as Bradley, Collingwood and Oakeshott and their colleagues across the Channel. Contemporary figures like Richard Rorty, Alasdair MacIntyre and Charles Taylor develop 'continental' themes in an idiom more congenial to analytical philosophy. Again, there are growing schools of analytical philosophy in France, Germany and elsewhere as well as recurrent waves of a neo-Kantianism which, in its fundamental claims, is not so very different (West, 1996, ch. 1; Critchley, 2001).

Although the 'discovery' of continental philosophy in the English-speaking countries is quite recent – until the 1980s, a course in philosophy that failed to mention Hegel or Nietzsche, Husserl, Heidegger or Sartre was not considered at all deficient – in fact, this discovery is more akin to the remission of an active process of forgetting and exclusion. The anomalies of the geographical definition testify to the frequent waves of influence between the camps in the past. Hegel, German idealism and Romanticism already had an enthusiastic following in Britain and America in the nineteenth century. Indeed, students of analytical philosophy will perhaps recall the triumphant blows dealt at the turn of the century by Russell, Whitehead and Moore against what was then an overwhelmingly Hegelian and idealist philosophical establishment. The ascendancy of analytical philosophy in its contemporary guise dates from this time, with *Principia*

Mathematica as symbolic watershed (Whitehead and Russell, [1903] 1950). Skirmishes persist, with the diatribes of logical positivism against the 'senseless' utterances of 'metaphysics' and the continuing though abating concern to demarcate 'science' from 'nonsense'. When A. J. Ayer reiterated the Humean repudiation of metaphysics as consisting neither of verifiable statements of fact nor of analytical or logical truths, he found it natural to choose Heidegger as his principal target (Ayer, [1946] 1971, pp. 59–61).

A second symptom of a real opposition between continental thought and philosophical analysis is what seems like an equally active process of misunderstanding. Admittedly, works of continental philosophy often present stylistic difficulties. In part these result from the sheer weight of allusion, born of the conviction that the history of philosophy is more than a catalogue of errors. The reader accustomed to analytical clarity is unlikely to be either surprised or disturbed at the claim that the propositions of Heidegger's *Being and Time* ([1927] 1967) are senseless, and she may be relieved to hear that 'metaphysics' can safely be ignored by the clear-headed philosopher of empirical bent. The allusive and occasionally opaque style of philosophy in the continental mode is taken to define continental philosophy as the 'other' of analytical clarity and rigour. But the suspicion that this incomprehension is a symptom more of an active rejection than passive inability becomes unavoidable, once the obscurities of much analytical philosophy are recalled. G. E. Moore's indefatigably commonsense reflections on perception are scarcely less impenetrable than Hegel's equally conscientious explorations of 'sensuous certainty'. The crystalline prose of Wittgenstein's *Tractatus Logico-Philosophicus* is no less difficult than the *Logical Investigations* of Husserl (Wittgenstein, 1961; Husserl, 1970).

There is, then, something arbitrary and artificial about the attempt to distinguish two geographically isolated traditions in Western philosophy. On the other hand, there is evidence of an active hostility between philosophical camps, a process of forgetting, exclusion and mutual misunderstanding, which points to a real opposition. The approach taken here traces a distinctively continental tradition in philosophy to the critique of Enlightenment, which was initiated by Herder and Rousseau but which found its first most systematic expression in Hegel's reaction to Kant's critical philosophy. Subsequent contributors to the tradition are 'post-Hegelians', in the sense that they develop or react against Hegel, but never simply ignore him, so that their ideas bear the marks of the Hegelian system even when they most vigorously oppose it. The tradition so defined includes Marx, Kierkegaard, Nietzsche, Husserl and Heidegger as well as the existentialisms of Sartre, Camus and de Beauvoir, the neo-Marxism of the Frankfurt School and Habermas, the schools of hermeneutics and phenomenology, structuralism, post-structuralism, deconstruction and postmodernism. Appropriately, this avowedly historical approach reflects one of the tradition's most important and distinctive features. Characteristic of the continental tradition are both a sceptical view of the timeless rationalism of an Enlightenment overly impressed by natural science and a deepened awareness of the cultural and historical constitution of thought, the fact that philosophy must always orient its enterprise in terms of a particular context and history. In this sense, the identification of a continental *tradition* of thought is itself an aim more congenial to the continental critics of Enlightenment.

Critics of Enlightenment

The Enlightenment, a period characterized by a self-conscious commitment to rationality, was the eighteenth-century culmination of a series of social, cultural and intellectual transformations associated with the onset of 'modernity' in Europe (Cassirer, 1951). Great social and economic changes accelerated from the sixteenth century with the voyages of discovery to the New World and beyond, the Protestant Reformation and the rise of capitalism (Habermas, 1987, lecture I). At the same time, the predominantly Aristotelian and Christian world-view of the Middle Ages began to unravel, as 'modern' philosophers and political theorists cast doubt on religious faith and traditional authority. The assault on the strongholds of medieval thought was spurred by the scientific discoveries of 'natural philosophers' like Newton and Galileo in the seventeenth century. Increasingly independent of religious assumptions, philosophers searched for more rational foundations for our knowledge of nature, for moral beliefs and the political order, in the hope that humanity might live more successfully by the light of its own reason. Kant encapsulated this conception of Enlightenment as the transition from 'immaturity' and dependence to the 'spirit of freedom' and autonomy, the ability 'to use one's understanding without guidance from another' (Kant, [1784] 1983, p. 41).

What were the main features of this transformation? In the first place, the Enlightenment dissolved the Aristotelian and medieval view of the world as a 'cosmos'. The modern world is no longer 'a meaningful order' but 'a world of ultimately contingent correlations to be patiently mapped by empirical observation' (Taylor, 1975, p. 4). Hume ridiculed the Aristotelian conception of the natural world as a teleological system of entities propelled by some inner necessity to fulfil their essential natures. Even if they existed, we could never have knowledge of these essences or the necessary connections between events that they implied. According to a further aspect of this transformation, knowledge of the world is attributed to a redefined subject of experience. The self is no longer constrained and defined by an essential purpose, moved to realize its intrinsic nature, whether as the creature of God or as a member of the *polis* (Aristotle's *zoon politikon*). The characteristic self of the Enlightenment is the Cartesian subject of consciousness. Descartes' methodical doubt leads him to conclude that the only certainty is that 'I am, I exist', and therefore what I am essentially is a thinking thing: 'I am not more than a thing which thinks, that is to say a mind or a soul, or an understanding, or a reason' (Descartes, 1931, pp. 151–2). The primary relation between self and world so defined is *epistemological*: the self is above all a knowing subject. But knowledge, finally, is also understood differently. Its goal is no longer to decipher the cosmos in order to realize God's will or to live more in harmony with the natural order. Rather, our ever-increasing knowledge of objects in the world serves to increase our mastery of nature and so to make our lives more certain and comfortable. The value and purpose of knowledge is principally instrumental (Bacon, [1605] 1973).

Some Enlightenment thinkers continued to profess faith in God, whether out of genuine conviction or cautious expediency. Descartes not only sought to provide a proof of God's existence, but he was able to avoid radical scepticism only with its help (Descartes, 1931). Other thinkers assumed the compatibility of faith and reason or, like

Bacon, the validity of religious 'wisdom' as opposed to merely human 'learning' (Bacon, [1605] 1973). Still, the world of the Enlightenment is significantly disenchanted, because it is no longer replete with the moral and religious significance of a divinely ordered cosmos. The causal regularities uncovered by science are of no moral or ethical significance, unable to support any evaluative conclusions. Hume's classic statement of the distinction between facts and values announces that 'virtue is not founded merely on the relations of objects' (Hume, [1739–40] 1888, p. 470). Hume also provides a devastating challenge to all attempts to base religious belief on our experience of events in the world, however miraculous ([1777] 1902, section X; [1779] 1990). Moral, political or aesthetic value can only be something injected into or projected on to the world by subjects of experience, 'self-defining' subjects who must seek moral guidance from within (Taylor, 1975). Values, which had previously shone from every facet of a meaningful world, must now be justified, whether as impressions of a 'moral sense' (Hume), as the decrees of self-legislating rational beings (Kant), as manifestations of the capacity for pleasure and suffering (utilitarianism), or as the unchallengeable expressions of capricious will or desire (varieties of subjectivism).

The main contours of the Enlightenment world-view are still recognizable within analytical philosophy. The continental tradition, on the other hand, constitutes a sustained attempt to surpass or transcend this position. One important inspiration is the conviction, against the atomist assumptions of most Enlightenment thinkers, that individuals are essentially social beings, dependent on society and culture. Herder (1744–1803) argues to this effect that language is the essential medium of our humanity ([1770] 1967). The powers of memory and anticipation implicit in 'reflection' or 'consciousness' are only possible through language. These powers are what compensate the human animal for the relative paucity and weakness of its instincts, offering both freedom and an enhanced ability to co-operate, more useful in a changing environment than the fixity and certainty of the animal's instinctual responses. Crucially, language is not seen as a transparent medium for the expression of thoughts or ideas that might exist without it. Different languages reflect and imply different ways of thinking and feeling, one result being that it is not always possible to translate easily from one language to another. Of more consequence is the fact that the languages of different peoples correspond to differences of culture and sensibility which, for Herder, define distinct nationalities. Because there is no universal human essence, whether natural, intellectual or spiritual, independent of the particular conditions of language and culture, the universal programmes of the Enlightenment's 'free thinkers' must also be called into question (Mechner, 1965).

Herder's insights into the social nature of human consciousness were in tune with the political thought of his near contemporary, Jean-Jacques Rousseau (1712–78). Rousseau is associated with the view that humanity is naturally good; he is seen as a source of Romanticism and the 'return to nature'. According to the first sentence of Rousseau's *Émile*: 'God makes all things good; man meddles with them and they become evil' (Rousseau, 1974, p. 35). More accurately, Rousseau refuses to posit *any* universal human nature existing prior to society, whether good or bad, altruistic or selfish. Rousseau denies, for example, that it makes sense to justify political authority in terms of the rational choices of individuals in a 'state of nature' prior to society. Hobbes's belief that selfish individuals would, out of fear, agree to the sovereign authority of the

'Leviathan' is just as unfounded as the optimistic anarchism of William Godwin (1756–1836), for whom natural individuals, untainted by civilization and authority, could live in uncontentious harmony without the legislative and coercive apparatus of the state (Godwin, [1798] 1976). For Rousseau human beings can only ever exist within society. Nor is the political will of the people simply equivalent to the 'will of all'. Rather, the 'general will' should reflect the real common interest of the social body, which may not be equivalent to the sum of the particular preferences of individual citizens. The sacrifices people must make for the sake of the common good are compensated in other ways:

> The passage from the state of nature to the civil state produces a very remarkable change in man, by substituting for instinct in his conduct, and giving his actions the morality they had formerly lacked. Then only, when the voice of duty takes the place of physical impulses and right of appetite, does man, who so far had considered only himself, find that he is forced to act on different principles and consult his reason before listening to his inclinations. (Rousseau, 1973, pp. 177–8)

Although this transition involves the loss of 'some advantages which he got from nature', the socialized individual is compensated by a stimulation and extension of his faculties, an ennobling of feeling and an uplifting of the soul. It is this 'moral liberty' which 'alone makes him truly master of himself; for the mere impulse of appetite is slavery, while obedience to a law which we prescribe to ourselves is liberty' (Rousseau, 1973, p. 178). This equation of liberty with subjection to law and society has been seen as a first step towards totalitarianism, as a licence for the tyrannical view that individuals might be 'forced to be free'. But the valuable insight remains that, whatever the defects of existing societies, it is only within society that individuals exist as rational, purposive, moral beings, who have access to a range of values, interests and forms of life incomparably richer than the meagre repertoire of the human animal's instinctual responses and biological needs. On John Keane's more sympathetic interpretation, Rousseau describes 'an individualism of cooperation and uniqueness (*Einzigkeit*) compared with that of mere singleness (*Einzelheit*)' (Keane, 1984, p. 254; cf. O'Hagan, 2003).

G. W. F. Hegel (1770–1831), another critic of Enlightenment, was inspired by both Rousseau and Herder. But it is the overwhelming synthetic power of Hegel's system that decisively inaugurates a distinct tradition of continental philosophy. His critique of the Enlightenment is all-encompassing, but it can be understood most pointedly in terms of his reaction to Kant's moral and political philosophy (Kant, [1785] 1996; cf. Allison, 1983). In contrast to Kant, Hegel is sceptical of the possibility of deriving concrete moral judgements, the principles of a full ethical life, from the commitment to 'practical reason' alone. Simply universalizing the maxims of one's actions, as Kant's 'categorical imperative' recommends, will never generate a determinate moral content. Nothing rules out the possibility that the autonomous self might be consistently and indiscriminately evil. What is more, Hegel's account of the French Revolution implies that this is the most likely outcome of Kant's purportedly universal morality. Hegel describes how, when 'each individual consciousness rises out of the sphere assigned to it' and 'grasps itself as the notion of will', it finds that 'its purpose is the universal purpose, its language universal law, its work universal achievement'. But universal

consciousness finds itself unable to produce any positive achievement or deed and 'there is left for it only negative action; it is merely the rage and fury of destruction' which aims only for death ([1807] 1967, pp. 601–4). On this account, the French Revolutionary Terror is a characteristic manifestation of the 'absolute freedom' and abstract universality of Kantian autonomy and so a characteristic expression of the Enlightenment.

Hegel's arguments suggest that the universalization of a 'monological' process of deliberation – a process that can in principle be performed by the reasoning subject in isolation – does not adequately reconstruct the concrete relations between human beings. Kant's categorical imperative is a formulation of universal 'morality' (*Moralität*) too abstract to ground the full intersubjectivity of 'ethical life' (*Sittlichkeit*). For Hegel, as for Rousseau, ethical life can only be sustained through involvement in a concrete community with its culture, values and forms of life. By the same token, the moral or rational will should not be seen as something absolutely opposed to the natural inclinations of the biological individual, as it is for Kant, but rather as the result of a *rationalizing* of these inclinations. Whereas the particular impulses of the human organism inevitably ignore the ethical demands of society, the socially constituted interests of mature individuals already reflect the requirements of the community, even when they are not necessarily in harmony with one another. The will, as opposed to mere impulse, is 'particularity reflected into itself and so brought back to universality, i.e. it is individuality' (Hegel, [1821] 1952, p. 23). The individual is a product rather than a premiss of the social order.

Other aspects of Hegel's system unfold from this basic point of view. If individuals must always be understood as members of a concrete community and culture, then, since cultures change over time, individuals must also be conceived in terms of their history. It might seem to follow that, in the absence of universal moral and political principles, we must be indifferent to the apparently repugnant values of a different culture or time. Hegel avoids accusations of relativism, however, by ordering alternative cultural forms in terms of a process of *development*. His philosophy of history portrays the diversity of cultural forms as moments in an unfolding 'dialectic'. Like the Socratic dialogue, the dialectic advances through the conflict of opposing points of view. The tensions implicit in one cultural form or world-view – one particular manifestation of 'spirit' (*Geist*), in Hegel's terms – are resolved or 'transcended' (*aufgehoben*) in the transition to a higher, more developed form. Thus any given society can be understood as both dialectically transcending previous social forms – incorporating their positive features whilst overcoming their inadequacies – and as itself destined to be succeeded by other, more developed forms. In these terms, Hegel magisterially, if also somewhat chauvinistically, accounts not only for world history but also for the entire development of cultural and intellectual life (Hegel, [1822] 1991). Furthermore, for Hegel the outcome of this spirally ascending dialectic of life forms can be known, at least in general terms, in advance. Through the course of history, 'spirit' becomes increasingly rational, self-conscious and free, a process culminating in the attainment of the 'Absolute' – the self-reflective appropriation of the whole process of dialectical development in art, religion and the modern European state. In the Hegelian philosophy itself, finally, 'spirit' becomes most fully and rationally self-conscious and free (Plant, 1973; Singer, 1983).

Overall, Hegel seeks to preserve human life and values from the corrosive tendencies of Enlightenment. He foresaw the threat, already apparent in the excesses of the French Revolution, of tyrannical domination by the limited and one-sided rationality of Western modernity. His elaborate philosophical system is designed to rescue a richer conception of 'reason' (*Vernunft*), as the only sound basis for a full life, from the reductive analytical grasp of mere 'understanding' (*Verstand*). However, his ambitious synthesis was to prove unstable. The overweening ambition and speculative bravura of Hegel's philosophy of the Absolute could not be sustained. But from the dissolution of his system there have emerged a further array of 'continental' responses to the one-sided rationality of the Enlightenment.

After Marx: the Frankfurt School and Habermas

The most famous response to Hegel is, perhaps, that represented by Karl Marx (1818–83) and the Marxist philosophy constructed in his name. Marx declared his intention of 'putting Hegel back on his feet' by replacing Hegel's idealist dialectic of spirit with a materialist dialectic located within the economic sphere. History is driven not by the contradictions within particular world-views, but by the development of 'productive forces' and the resulting contradictions between forces and 'relations of production'. Marx was also a so-called Left Hegelian. According to 'Right Hegelians', the dialectic of history comes to an end with the Prussian state of their own time, and Hegel's philosophy itself corresponds to the last stage of the dialectic of spirit, the final achievement of the Absolute. The conservative implication is that no further transformation of society or philosophy need be anticipated. According to Marx and other Left Hegelians, on the other hand, present society and philosophy correspond to only the latest stage of the dialectic, destined to be overtaken by another, more advanced stage. For Marx, this final step is the transition from capitalism to socialism and then communism (see chapter on Marxism). However, the Marxist project has been beset with difficulties, in particular the non-occurrence of revolution in the West and the degeneration and now collapse of Marxist–Leninist revolution in the East. More orthodox Marxists have attempted to retain the framework of historical materialism and explain these failures in terms of external and contingent factors, such as the imperfection of leaders, an undeveloped economy or aggression from the capitalist powers. According to a significant tradition of 'critical' or Western Marxism, on the other hand, these failures reflect inadequacies in the project itself. Thinkers in this tradition therefore propose a thoroughgoing renewal of Marxist theory, inspired by Marx's own Hegelian insight into the historically situated nature of all thought. In their revision of Marxist assumptions, they reclaim, in the face of materialist suspicions of all abstract philosophy, an important role for a specifically philosophical critique and, in the process, resume the Hegelian critique of Enlightenment (Anderson, 1979).

Members of the Frankfurt School, associated with the Institute for Social Research founded in Frankfurt in 1923, were inspired by Marx's most famous 'Thesis on Feuerbach': that whereas until now 'philosophers have only *interpreted* the world, in various ways; the point is to *change* it' (Marx, [1845] 1975, p. 423; cf. Jay, 1973; Held, 1980; Wiggershaus, 1994). Philosophers should construct a 'critical theory', which

both provides a diagnosis of the faults of existing society and contributes to the struggle for its transformation in the interests of the oppressed and exploited. Although the critical theorists of the Frankfurt School see Marxism as a prototype for this kind of theory, they also recognize an urgent need to revise some of its fundamental assumptions. In this sense, they take advantage of Georg Lukács's (1885–1971) view, that the orthodox Marxist is committed only to the Marxist *method*, not to its *content* (Lukács, 1971, p. 1). The dogmatic commitment to 'historical materialism' – the systematization of Marx's ideas bequeathed to the socialist movement mainly by Friedrich Engels (1820–95) – contradicts the Hegelian and materialist insight into the social and historical constitution of all knowledge. Since capitalist society has undergone significant transformations since the time of Marx and Engels, critical theory should develop and change as well. Critical theory should be *self*-critical. This return to the more Hegelian *early* Marx, at the expense of the self-consciously scientific economic theory of the later writings emphasized by Engels, was reinforced by the belated publication of Marx's *Economic and Philosophical Manuscripts* of 1844 ([1932] 1975).

The return to Hegel and the early Marx also informs some of the specific criticisms levelled at historical materialism by Frankfurt theorists. A particular object of critique is the 'scientism' of this theory. The notion that a rigorous science of society could identify 'iron laws' of capitalism, provide a complete explanation of social evolution and then predict the inevitable collapse of capitalism and its eventual replacement by communism, is identified as a major source of defects of both Stalinism in the East and revolutionary communism in the West (Marcuse, 1958). The pretensions of 'scientific socialism' served to justify the doctrine of 'democratic centralism', the ultimate authority of the Party's intellectuals and leaders as experts in the theory, paving the way for bureaucratic authoritarianism in communist societies. Cruder versions of the primacy of the economic 'base' in the explanation of social evolution encouraged the 'economistic' belief in the centrality and sufficiency of struggles at the 'site of production' and indifference towards self-consciously moral and intellectual activism as merely 'utopian'. A scientifically certified revolutionary optimism may even encourage apathy. If eventual victory is assured by the logic of economic development, then political efforts at the level of the 'superstructure' are superfluous. In the more activist guise of 'voluntarism', on the other hand, Leninism appeals to the scientific authority of the revolutionary Party in an energetically political but no less authoritarian vanguardism. Expedient violations of 'bourgeois morality' can be excused, because victory is inevitable, the movement incorruptible (see Lukes, 1987).

Generalizing these criticisms of historical materialism, members of the Frankfurt School developed a wide-ranging critique of 'positivism'. Positivists view natural science as the model for all valid knowledge and regard other forms of discourse, whether ethical, aesthetic or religious, as invalid or, at best, suspect. Already Hume had advocated the 'application of experimental philosophy to moral subjects' in order to lay the 'science of man' on the 'solid foundation' of 'experience and observation' ([1739–40] 1888, p. xx). Hume's positivist heirs unconsciously perpetuate the implicit conservatism of this approach by theorizing alterable social relations as unalterable consequences of psychological or social laws. Marx saw classical political economy as essentially ideological, because it described capitalism as a natural system, obscuring its contingent historical origins and exploitative relations and, as a result, hindering

the advance towards a more rational, less unjust form of society. The Frankfurt School recognize similarly positivist tendencies in contemporary social sciences, insofar as they are modelled on the methods and assumptions of natural science. They are a species of what Max Horkheimer (1895–1973) calls 'traditional theory' (Horkheimer, 1992; Adorno et al., 1976). A genuinely critical theory, on the other hand, should uncover the 'negative' dimension of existing reality, identifying suppressed human potentialities and the related possibility of a more just and less exploitative society. In bourgeois society, hints of this 'negative' dimension are preserved in the politically muted form of works of art and idealist philosophy, in the fantasies of Romanticism and the harmonious perfection of classical beauty. As Herbert Marcuse (1898–1979) remarks, it is only when fantasy becomes an integral part of social science that theory can fulfil its emancipatory potential: 'Without phantasy, all philosophical knowledge remains in the grip of the present or the past and severed from the future, which is the only link between philosophy and the real history of mankind' (Marcuse, 1968b, p. 155).

Frankfurt School theorists also incorporate features of German sociology after Marx, in particular Max Weber's (1864–1920) less reductionist explanation of social change and his influential account of the rationalization of society. In contrast to historical materialism, Weber's study of the role of the 'Protestant ethic' in the rise of capitalism places greater emphasis on the 'superstructural' factors of religion and morality in the transition from feudalism to capitalism (Weber, 1930). Weber also sees capitalism as just one instance of a more general and much older process of 'rationalization' characteristic of modern Western civilization. Rationalization was already evident in Roman law before emerging in modern science and the increasingly bureaucratic organization of the secular state. However, capitalism, bureaucracy and the modern state manifest only a limited, one-sided form of rationality. They rationalize society only in the sense of 'formal' or 'instrumental' rationality, which serves to organize efficient means for some given purpose or end. This kind of rationality has nothing to do with a 'substantive' rationality of ends capable of evaluating the ultimate goals of human activity. In fact, the formal rationalization of state and economy may further substantively *irrational* outcomes. The state can be efficiently organized to realize undesirable or even obnoxious goals – a possibility most strikingly confirmed by National Socialism. Less dramatically, the limited rationalization of society characteristic of modernity increasingly confines human beings to the 'iron cage' of an alienated, bureaucratically organized existence without shared meaning or values.

The analysis of Frankfurt School theorists is deeply influenced by this account of the rationalization of modern Western societies. However, whereas Weber saw this process as inevitable and irreversible, they continued to search for an escape from the iron cage of instrumental rationality, despite their experience of the failures of Marxism and the barbarity of fascism. Horkheimer and Theodor Adorno (1903–69) propose a revised 'dialectic of Enlightenment' (Horkheimer and Adorno, 1972). They return to the story of Odysseus for the 'primal history of a subjectivity that wrests itself free from the power of mythic forces' (Habermas, 1987, p. 108). The victory of instrumental rationality over superstition and myth, which is celebrated unequivocally by the Enlightenment, is in fact only partial and won at significant cost. Although science liberates us from the animistic terrors and uncertainties of nature, it offers us only a diminished understanding of nature as an object to be manipulated and controlled. The ascendancy of

scientific reason comes at the further cost of an 'introversion of sacrifice', a corresponding loss of our humanity when the instrumental logic initially applied to the disenchanted world of inanimate things is extended to relations between human beings. And there is a further dialectical sting to this analysis. Suppressed 'internal nature' always threatens to erupt destructively into modern life, a possibility once again exemplified by twentieth-century fascism. In similar vein Marcuse, influenced by Sigmund Freud's (1856–1939) psychoanalysis of the unconscious, charts the psychic costs of modern society (Marcuse, 1966). Like the neurotic still disabled by childhood trauma, we are fixed in patterns of behaviour more appropriate to the scarcities of the past. So Western society imposes a level of self-denial, a curtailing of the 'polymorphous perversity' of the pleasure principle that is no longer necessary in an era of unprecedented productive potential. Marcuse's account of the sacrifice of 'Eros' for the sake of 'civilization' holds out the promise of an eventual release from the 'surplus repression' imposed by society. Written in the conformist 1950s, this analysis was taken up with enthusiasm in the decades of 'permissiveness', of women's and sexual liberation that followed (Geoghegan, 1981; cf. Marcuse, 1969; 1970).

Other studies of the Frankfurt School, however, tended more towards pessimism. From one point of view, critical theory's broader agenda of aesthetic, cultural, psychological and sociological studies promised to enrich the Marxist critique of ideology and provide a more adequate explanation of the disasters of twentieth-century history. The contribution of Freudian psychoanalysis complicates the historical drama, transposing it in part to the internal stage of Oedipus complex, repression and sublimation, Eros and Thanatos. In the 'age of mechanical reproduction', mass media of radio, sound reproduction, film and television inspire analyses of the 'culture industry', conceived as an extension of industrial techniques to the cultural domain (Benjamin, 1968; Adorno, 1991). The origins and attributes of the authoritarian personality and the contemporary family are explored with the techniques of social psychology (Adorno et al., 1950). At the same time, the Frankfurt School's exhaustive inventory of the subtlety and all-pervasiveness of the mechanisms of power harboured more worrying implications. The more the stubborn conformity of contemporary society is explained, the more any upsurge of revolutionary enthusiasm seems unlikely. In the end, Adorno's 'negative dialectics' suggest few avenues of escape (Adorno, [1966] 1990; cf. Jarvis, 1998). Although Marcuse is less uniformly pessimistic, his systematic portrayal of the 'one-dimensionality' of contemporary existence leaves little room for hope. With the seamless mediocrity of its mass-produced entertainment and overfed complacency, its positivistically disarmed sociology and philosophy, contemporary Western society either stifles or marginalizes genuine opposition and all but eliminates the negative dimension of critical thought (Marcuse, 1968a). Even liberal freedoms only serve to defuse resistance by their 'repressive tolerance', entrenching more effectively than totalitarian censorship ever could the limited choices and diminished lives of one-dimensional society (Wolff et al., 1969).

The Frankfurt School's tendency to reinforce apathy rather than inspire resistance is exacerbated by its relatively undifferentiated treatment of intersubjectivity and domination. In the *Dialectic of Enlightenment* nature is confronted by a generalized humanity. Marcuse's account of the totalitarian expansion of instrumental rationality similarly suggests a society of uninterrupted manipulation and control (Connerton, 1980).

Marcuse only finds likely agents of revolution in those whose existence lies essentially outside of the totalitarian system, in 'the substratum of the outcasts and outsiders, the exploited and persecuted of other races and other colours, the unemployed and the unemployable'. These groups will be able to bring about revolution only if they are led by the radical students and youth, who represent 'the most advanced consciousness of humanity' (1968a, pp. 199–200). But a critical theory that discovers seeds of opposition only in the bearers of the critical theory itself surely risks encouraging the elitism and even authoritarianism of another revolutionary vanguard. There are, in Paul Connerton's phrase, no 'structural gaps within the system of repressive rationality' (Connerton, 1980, p. 102). Losing sight of the relations of domination and resistance occurring between social groups, the Frankfurt School's neo-Marxism has had a largely apolitical outcome. Even John Holloway's nominally practical guide on how to *Change the World without Taking Power*, which draws heavily on the ideas of Lukács and Adorno as well as autonomist Marxism and existentialism, is surprisingly reminiscent of Adorno's frustrated radicalism (Holloway, 2005).

More recently, the critical Marxism of the Frankfurt School has been renewed by the wide-ranging and ambitious project of Jürgen Habermas (1929–) who, throughout his life has championed the role of a critical public sphere (Habermas, [1962] 1989; cf. Holub, 1991). To this end, in his earlier writings Habermas reworks the critique of positivism on the basis of a modified philosophical pragmatism, which grounds different kinds of knowledge and rationality in different modes of action. The achievements of natural science and technology are understood as developments of the logic of instrumental or 'purposive-rational' action. Technological development – and indeed instrumental or formal rationality more generally – 'follows a logic that corresponds to the structure of purposive-rational action regulated by its own results, which is in fact the structure of work' (Habermas, 1971, p. 87). However, a form of rationality more relevant to the moral concerns essential for a critical public sphere is understood in terms of a different pragmatic context, what Habermas originally called 'interaction' or 'communication according to consensual norms'. Communicative interaction corresponds to the context of interpersonal relations, the relationship between subjects seeking mutual understanding (as opposed to the instrumental relationship between subject and object in work). Work and interaction are thus the pragmatic contexts for very different forms of knowledge serving different 'cognitive interests'. 'Empirical-analytic sciences', like the natural sciences, are grounded in work and fulfil a technical interest in the control of external reality. 'Historical-hermeneutic sciences' (including history, anthropology and disciplines concerned with the interpretation of texts) find the basis of their objectivity in interaction or communication and serve an interest in mutual understanding, providing 'interpretations that make possible the orientation of action within common traditions' (1972, p. 313).

In *Knowledge and Human Interests* Habermas identifies a third kind of knowledge, critical theory itself, which is grounded in the further pragmatic context of 'self-reflection'. Even hermeneutic knowledge, though it does not imply a manipulative or instrumental relationship with its object, fails to uncover false or ideological consciousness, because it is blind to the workings of power and domination – what Habermas calls 'distorted communication'. Again, although the identification of law-like correlations between social phenomena is a legitimate component of social theory, critical

social science must go beyond this 'empirical-analytic' perspective as well in order 'to determine when theoretical statements grasp invariant regularities of social action as such and when they express ideologically frozen relations of dependence that can in principle be transformed' (1972, p. 310). Marx's critique of bourgeois economics is, once again, the prototype of a critical theory in this sense, uncovering and helping to dissolve the 'frozen' regularities of capitalism by revealing supposedly inevitable relations of dependence as socially instituted and hence alterable. Another model for critical theory is Freudian psychoanalysis. Psychoanalysis can lead to the dissolution of neurotic symptoms, which are recognized as obsolete defence mechanisms inhibiting the individual's 'internal communication'. Critical theories, in other words, serve a cognitive interest in emancipation.

With the help of his basic distinction between instrumental and communicative rationality and action, which persists in varying forms throughout his work, Habermas also reformulates the Frankfurt School's diagnosis of modernity's 'iron cage'. In the preferred terminology of his later writings, the 'lifeworld' (corresponding to the domain of communication or interaction) is 'colonized' by the 'systems' or 'steering mechanisms' of money and power – the capitalist economy and rationalized state of modern Western societies. In this context, the welfare state and Keynesian economics of post-Second World War capitalism amounts to a further expansion of the state into the lifeworld, bureaucratically defining and administering needs that were previously moulded by traditional and unquestioned processes of socialization. Resistance to this 'colonization of the lifeworld' has been blunted by the prevalence of instrumental rationality in both positivist sociology and orthodox Marxism, which have both in effect been captured by modernity. However, Habermas also points to the *progressive* potential of modernity. Modernity disrupts authoritarian features of the traditional lifeworld such as the patriarchal family and dogmatic religion, opening the way for the communicative (as opposed to instrumental) rationalization of the lifeworld. The realization of this alternative path of modernization depends on the possibility of a 'universalistic discourse ethics', that would permit a genuinely discursive will formation beyond the constraints of both conventional morality and instrumental rationality. Nor is this just an abstract possibility. According to Habermas, 'new social movements' of women and 'greens' potentially 'put reformed lifestyles into practice' in the spirit of the 'rationalized lifeworld' of open communication, universal values and post-conventional morality (Habermas, 1981; 1984).

Discourse ethics is the result of Habermas's attempt to provide more adequate moral foundations for critical theory. In the spirit of the return to Hegel, previous members of the Frankfurt School had advocated an 'immanent' or 'internal' critique of society. In other words, society would be transformed by rendering explicit its dialectical tensions or contradictions, turning its *own* values and principles against it in order to bring about a more adequate social order. In the same way, Marx castigated the sham universality of bourgeois justice for the sake of a more truly just future society. Habermas, on the other hand, believes that the whole enterprise of immanent critique has been undermined by the retreat of universalistic morality in the face of technocracy and positivism. Bourgeois consciousness has become 'cynical', so we can no longer expect its immanent critique to lead to any worthwhile social transformation (1991: 96–7). Habermas seeks instead to base critical theory on values presumed to be implicit in the

pragmatics of *language*. As McCarthy puts it, Habermas's argument is 'that the goal of critical theory – a form of life free from unnecessary domination in all its forms – is inherent in the notion of truth; it is anticipated in every act of communication' (McCarthy, 1978, p. 7).

Habermas's 'linguistic turn' parallels similar developments within analytical philosophy and, indeed, draws inspiration from the work of J. L. Austin and John Searle as well as the linguistics of Noam Chomsky. 'Speech act' theory focuses on the pragmatic dimension of speech, or in other words all the ways in which to speak is also to do something – for example, to make a promise, to command, to advise or to condemn. This leads Habermas to emphasize the evaluative presuppositions of communication. According to his theory of 'universal pragmatics', every act of communication involves an implicit raising of 'validity claims'. Communication is based on the mutual expectations that speakers implicitly undertake to ground or validate their utterances:

> The speaker must have the intention of communicating a true [*wahr*] proposition . . . so that the hearer can share the knowledge of the speaker. The speaker must want to express his intentions truthfully [*wahrhaftig*] so that the hearer can believe the utterance of the speaker (can trust him). Finally, the speaker must choose an utterance that is right [*richtig*] so that the hearer can accept the utterance and speaker and hearer can agree with one another in the utterance with respect to a recognized normative background. (Habermas, 1991, pp. 2–3)

These validity claims reflect the relation of language to external reality or nature (the value of truth), to a realm of society or intersubjectivity (moral rightness), and to the 'internal nature' of the speaker's own feelings, beliefs and intentions (truthfulness or sincerity). In this sense, our ability to engage in communication with other subjects – what Habermas calls our 'communicative competence' – already involves mastery of at least these fundamental moral values (1991, ch. 1). A fuller account of these values is given by Habermas's consensus theories of theoretical and practical truth. Challenges to particular utterances are, in fact, often met with appeals to authority (of priests, oracles or sacred texts), threats or the use of force (by the Inquisition) and so on. Habermas believes, however, that a more rational response is not only to be preferred but, in some sense, is already implicitly anticipated whenever and wherever people enter into communication – the real crux of the universal status of his theory of pragmatics (see McCarthy, 1978, ch. 4). This more rational response is to engage in a 'discourse' under the conditions of an 'ideal speech situation', that is, free of relations of domination and where participants are undogmatically committed to the consideration of different ideas and even alternative conceptual schemes.

Habermas's theory of universal pragmatics has been criticized as a new transcendentalism in the spirit of Kant, a return to the doomed and potentially authoritarian Enlightenment project of providing timeless and universal foundations for morality. Some critics see Habermas's commitment to consensus, however idealized and anticipatory it is supposed to be, as constraining and potentially oppressive (see below, in section on postmodernism). Many have been sceptical of the universal status claimed on behalf of 'discourse ethics' (e.g. McCarthy, 1978; Thompson and Held, 1982; Benhabib and Dallmayr, 1990). Is it really plausible to suppose that every act of

communication within every culture always implicitly raises precisely those validity claims, discursively redeemable, that Habermas describes? These difficulties have led Habermas to limit the scope of discourse ethics to the validation, in Hegelian terms, of universalistic norms of 'morality' as opposed to the values and cultural forms of 'ethical life', which are inextricably bound to particular human communities and identities and so beyond the scope of reasoned argument (Dews, 1986; Habermas, 1990).

The further development of 'discourse ethics' tends to confirm Habermas's gradual return to something close to liberalism in Kantian guise (Habermas, 1993; Baynes, 1995; Warren, 1995; Dryzek, 2004). His discourse theory of democracy provides a subtle and nuanced reformulation of the normative basis of liberal democracy (Habermas, 1996). The normative force of discourse is deployed with the aim of resolving the normative tensions between liberal rights and democratic will formation, legal positivism and natural law, ideal validity and pragmatic effectiveness, that have plagued liberal-democratic theorizing. Although Habermas undoubtedly makes a valuable contribution to these issues, it is not so clear that his contribution is distinctively continental. Certainly, Habermas retains the Hegelian insight that individual autonomy depends on discursive interactions with other people in the public sphere (Warren, 1995, pp. 178–9). Also Hegelian is Habermas's indefatigable commitment to theoretical synthesis. But it is hard to deny that he has moved away from his originally Marxist and Frankfurt School inspiration (cf. White, 1988; Outhwaite, 1994).

Existentialism

Hegel's systematic philosophy attempts to rescue the underlying truths of religion and morality from an over-hasty Enlightenment critique. In Hegel's speculative idealism the truths of religion and morality are recovered in a higher, more rational form, 'transcended' in the dialectical synthesis of 'Absolute Spirit' and the modern state. In rejecting this solution, Søren Kierkegaard (1813–55) founds a second post-Hegelian strand of continental philosophy, a strand that can be seen to lead to existentialism and, at least initially, away from politics. Kierkegaard denies that reality can be completely captured by any systematic philosophy. The disinterested, contemplative knowledge, championed by the Enlightenment and then deployed against it with such ingenuity and persistence by Hegel, is unsuited for an understanding of the inner life or 'existence' of human beings. The one-sided, merely abstract theoretical knowledge (Gk. *theoria*) of the Western philosophical tradition fails to illuminate subjective experience. The attempt to weave the truths of morality and religion into a theoretical account of the world, however sophisticated, can only falsify them. Rather, the proper object of thought is the 'personal existence', the distinctively subjective ethical reality of the individual.

Kierkegaard's exploration of subjective truth has ultimately religious motives (Kierkegaard, 1941). He is opposed to humanist theology's reconciliation of faith and reason, insisting – in the tradition of St Augustine, Meister Eckhart and Luther – that faith is irrevocably *beyond* reason. Religious truth is diminished rather than enhanced by being reduced to the principles of a merely human rationality. In effect, Kierkegaard takes seriously the ironic taunt of David Hume who, after demolishing all rational

grounds for belief in miracles, remarks that anyone who still believes in them 'is conscious of a continued miracle in his own person, which subverts all the principles of his understanding, and gives him a determination to believe what is most contrary to custom and experience' (Hume, [1777] 1902, p. 131). Kierkegaard seeks instead to found religious belief on the subjective truth of personal existence, claiming that through faith we approach a truth far more important to our lives than the theoretical truths of science or philosophy.

Kierkegaard grounds his vision of religious faith in a more general account of the human condition. The primary fact of our existence is the need to *decide*, the need to make a choice about how we shall live. What is more, faced with the impossibility of any rationally certified moral system, we are forced to choose under conditions of uncertainty. As a result, we are prey to feelings of 'dread' or 'anxiety', which are in fact the inevitable counterpart of human freedom. For 'man', anxiety is both attractive and repulsive at the same time: 'He cannot flee from dread, for he loves it; really he does not love it, for he flees from it' (Kierkegaard, 1946, p. 40). Anxiety reflects the tremendous responsibility borne by the individual who is aware of her freedom to decide what she will do with her life. If we fail to decide, our existence is empty and drifting, comprising only the disconnected and ultimately meaningless pleasures of hedonistic, or what Kierkegaard calls 'aesthetic', existence. But the decisions that we must make cannot, as the Enlightenment had hoped, be deduced by purely rational means from self-evident moral premisses. If they could, our freedom would be an illusion. Our decisions can only be informed by an understanding, enriched by experience, of the different spheres of existence or approaches to life that are available to us.

Beyond the aesthetic or hedonistic sphere, Kierkegaard identifies two further modes of existence, the 'ethical' and the religious. The second part of *Either/Or*, Kierkegaard's first major work, provides a somewhat unappealing account of the 'ethical' sphere in the guise of the socially responsible life of duty as represented by marriage (Kierkegaard, 1987). But even this 'election of a definite calling' is ultimately contradictory and unsustainable. Only the religious life is fully satisfactory, though it is by no means an easy choice. God's will may, as in the case of His command to Abraham to kill his son Isaac, violate not only our wishes but also society's most basic moral norms. The story of Abraham reveals faith as a 'monstrous paradox', 'a paradox capable of making a murder into a holy act well pleasing to God, a paradox which gives Isaac back to Abraham, which no thought can grasp because faith begins precisely where thinking leaves off' (Kierkegaard, 1960, p. 82; cf. Hannay, 1991). We must believe even though – in fact, precisely because – religious faith violates both our rationality and our morality. True faith is only attained through a commitment that persists despite all our moral and intellectual reservations. In the phrase adapted from Tertullian, '*credo quia impossibile*' – 'I believe, because it is impossible'. An influential tradition of existentialist theology, including such figures as Martin Buber and Gabriel Marcel, has drawn inspiration from this approach.

Another thinker developed an atheistic but still recognizably existentialist philosophy, again with largely anti-political implications. Although he sometimes praised Jesus Christ as a great human being, Friedrich Nietzsche (1844–1900) was virulently anti-Christian, describing Pascal's somewhat Kierkegaardian faith as 'a continuous suicide of reason' (Nietzsche, 1973, p. 57). Still, though religion no longer provides the

solution to existence, Nietzsche recognizes the radical implications of the 'death of God' more clearly than the Enlightenment's 'free thinkers'. He rejects not only the self-denying, other-worldliness of Christianity but also the historical eschatologies of Hegel and Marx, which are little more than the pursuit of religion by other means (see Deleuze, 1983, ch. 5). The problem of existence is deferred rather than resolved by philosophies of history and ideologies that value the present only as a step towards the foreordained future of 'Absolute Spirit' or communism. Nor is what comes later necessarily better; history is not a tale of progress. Rather, the point of existence must lie in the immediacy of present experience. Nietzsche is drawn to the ideal of the 'supra-historical' man 'who does not envisage salvation in the process but for whom the world is finished in every single moment and its end attained' (quoted by Kaufmann, 1974, p. 147): 'No, the goal of humanity cannot lie in its end but only in its highest exemplars' (Nietzsche, 1983, p. 111). Value lies in cultural, intellectual or personal greatness whenever it occurs. Great achievements are more likely to be realized through the lives of exceptional individuals like Goethe or Spinoza than by the collective political agents of the world-historical process.

The supra-historical powers 'lead the eye away from becoming towards that which bestows upon existence the character of the eternal and stable, towards art and religion' (Nietzsche, 1983, p. 120). The doctrine of the 'eternal return' can also be interpreted as an affirmation of existence in this sense. The joy of the 'overman' is expressed in '*amor fati*', the 'love of fate' that craves the eternal recurrence of the present moment. This emphasis on individual life and experience implies a relatively distanced relationship with politics. As Kaufmann puts it, Nietzsche develops 'the theme of the anti-political individual who seeks self-perfection far from the modern world' (Kaufmann, 1974, p. 418). Certainly, only a distorted reading of Nietzsche could blame him for the rise of fascism. He is persistently contemptuous of both German nationalism and anti-Semitism. Nietzsche's 'master race' is conceived as 'a future, internationally mixed race of philosophers and artists who cultivate iron self-control' (Kaufmann, 1974, p. 303) – hardly the self-indulgent gangsters of national socialism. On the other hand, to derive a more constructive politics from Nietzsche's avowedly elitist, even anti-social ethic is no easy task (cf. Ansell-Pearson, 1991).

It is with Jean-Paul Sartre (1905–80), whose major work *Being and Nothingness* (1958) is often regarded as the definitive statement of existentialism, that this approach makes its most explicit contribution to political thought. Sartre differs from both Kierkegaard and Nietzsche in the privileged status he accords to political experience and action, as opposed to either the religious or aesthetic domains. In his essay *Existentialism and Humanism* Sartre defends existentialism from the reproach that it amounts to a morbid and individualistic celebration of despair and anxiety leading inevitably to either political quietism or nihilism. Rather, the fundamental existentialist principle, that for human beings 'existence comes before essence', implies the individual's absolute responsibility for her own life. To be constrained by custom, ideas of human nature or divine will, or any other notion of human essence, is to live inauthentically or in 'bad faith' (*mauvaise foi*). Our existence defines our essence in the sense that we are free to create our own lives and values, we are 'condemned to liberty' (Sartre, 1977, pp. 28–9). But in contrast to the often anti- or apolitical individualism of earlier existentialism, Sartre claims that our choices inevitably have political implications as

well, because an individual's decision is at the same time tantamount to a proposal for humanity in general. What remains unclear is how humanity's creation of values can avoid 'bad faith' without being completely arbitrary. Sartre's existentialist reformulation of the categorical imperative faces similar problems to Kant's original.

Sartre's early political involvement came during the Second World War with the French resistance to German occupation. After the war he embarked on a long and tortuous relationship with Marxism and the French Communist Party. He was prominent as an 'engaged' intellectual in opposition both to American 'imperialism and genocide' in Vietnam and France's rearguard colonialism in Algeria (Sartre, 1974; cf. Elliott, 1987). In his novels and plays he explored various aspects of politics: for example, the dilemmas facing the political terrorist in *Les Mains Sales* (Sartre, 1961) and the formation of a fascist sympathizer in his short story 'The childhood of a leader' (Sartre, 1960). In his later work Sartre proposes an ambitious synthesis of the insights of existentialism and Marxism, but now at the level of social action rather than individual engagement (Sartre, 1976). His suggestive but problematic 'critique of dialectical reason' seeks to theorize human society and history according to the principle that 'men make history'. He explores the various mediations between the individual and the social totality such as family, nation and class. He holds out the optimistic promise that, in Poster's words, 'human beings can attain freedom through the recognition of freedom in the other and in the consequent action of solidary groups pursuing this freedom' (Poster, 1979, p. 43). Particularly interesting is his analysis of different examples of social 'ensemble': the alienated, 'serial' interaction between individuals relating to one another as things in a bus queue; the 'indirect gathering' of the passive and isolated listeners to the radio broadcast; and the 'impotent bond' of individuals buying and selling on the market (Sartre, 1976, pp. 256–342). This analysis helps to pose the problem of genuinely collective action in an acute way: how can we explain the occasional and often unexpected eruption of solidary action in what Sartre calls the 'fused group' – the sudden 'upsurge of mutual recognition in the context of daily life' which constitutes freedom (Sartre, 1976; Poster, 1979, p. 86; cf. Aronson, 1980)?

Albert Camus (1913–60) provides an alternative account of the politics of existentialism which, in contrast to Sartre, is critical of Marxism (see Cruickshank, 1960; O'Brien, 1970). In a move analogous to Sartre's existential modulation of the categorical imperative, Camus grounds his political stance with a dramatic allusion to Descartes. Descartes' famous '*cogito ergo sum*' ('I think, therefore I am') is given a political and social inflection: 'Je me révolte, donc nous sommes' – 'I revolt, therefore we are' (Camus, 1954, p. 36). The individual's only defensible response to the absurdity of existence is revolt. Camus's ethic of revolt implies an uncompromising honesty or 'lucidity' in the face of the absurdities and cruelties of existence, which encounters its most obvious enemies in the stifling atmosphere of conventional bourgeois morality and, more dramatically, in totalitarianism, terror and the concentration camp. Attacked by Sartre for keeping clean hands at the expense of engagement on the side of the exploited, Camus's reputation also suffered over his support for his former compatriots, the French colonists, during the Algerian war of independence (cf. Sprintzen, 1988).

The overall contribution of existentialism to social and political thought has been ambivalent. Camus is more influential as a novelist and philosopher of the absurd than for his overtly political writings. Sartre moved away from existentialism as he developed

the more articulated political theory of *Critique of Dialectical Reason*. Theorists associated with the Frankfurt School have criticized existentialism for the apolitical nature of its concept of freedom. So, for example, Marcuse sees existentialism as an apolitical and ultimately futile attempt to resolve the problems of 'concrete existence' with the abstract and transcendental resources of philosophy rather than a critical theory of society (Marcuse, [1972] 1973, p. 174). For the Sartre of *Being and Nothingness*, freedom – the free subjectivity of the 'for-itself' (*pour-soi*) – does not depend at all on social and political conditions. In these terms, notoriously, the prisoner is just as free as his gaoler. To allow oneself to be determined by either social conditioning or genetic inheritance is just bad faith. Conversely, no alteration of social conditions can have any real impact on freedom in Sartre's sense.

This problem was tackled by another important contributor to the politics of existentialism, Simone de Beauvoir (1908–86), who develops a more situated and politically useful conception of freedom. In *Pyrrhus et Cinéas* Beauvoir expresses a view of freedom as inseparable from the resistance of an intractable reality (1944, pp. 9–12). It follows that human freedom is never absolute or unconditioned, but must always be understood in relation to a concrete situation. Because the self's active transcendence always presupposes a degree of resistance, it is also possible for Beauvoir to countenance *degrees* of freedom and bondage and, hence, a genuinely political project of liberation. She is, of course, most well known for her application of the categories of Sartre's existentialism to woman as the oppressed *Second Sex*. Throughout history woman has been treated not as the 'reciprocal Other'– an essentially equal party to symmetrical processes of mutual recognition – but as the permanent and 'inessential Other' of man, who alone is deemed the worthy representative of universal humanity and freedom (Beauvoir, [1949] 1972, pp. 16–18; cf. Bair, 1990; Gatens, 1991).

The Anti-humanist Critique of the Subject

An alternative reaction to the Hegelian synthesis leads to what might be called the anti-humanist critique of the subject, which plays a crucial role in both post-structuralism and postmodernism. This critique shares some of its origins and themes with existentialism: there are echoes of Kierkegaard's rejection of the systematic philosophy of Hegel; Nietzsche is again a significant source, as is Heidegger. However, through a series of intellectual transitions and external influences, a very different strand of post-Hegelian thought emerges. The major impact of these changes is to undermine the privileged philosophical and political status accorded to the subject. The Cartesian ego or consciousness is no longer conceived as the privileged subject of knowledge. The political agent – whether in the guise of the responsible 'bourgeois' individual of liberalism and republicanism or the collective, self-conscious proletariat of Marxism – is no longer the unproblematic subject of political practice. Even the subjective truth and authentic engagement of the existentialist individual is compromised.

In fact, the emergence of this theoretical anti-humanism radicalizes tendencies already apparent in the human and social sciences – a series of developments leading to a significant 'decentring' of the subject of experience and action. Thus the Marxist theory of ideology implies that our consciousness is determined primarily by class

location and conflicts within the prevailing mode of production. Our beliefs and attitudes, even our most deeply held moral values, may reflect our social origins more than any objective reality or morality (Marx, 1977). On another front, Freudian psychoanalysis probes the unconscious causes of mental states, with the implication that the reasons we give for our actions may be no more than self-deluding rationalizations. Their real causes may be neurotic remnants of childhood trauma or unresolved emotional conflict. Neurotic symptoms and obsessions, jokes and apparently accidental slips of the tongue, the forgetting of names or appointments, our dreams and fantasies, are all interpreted as expressions of an unconscious mind beyond the control of the conscious self (Freud, 1938; 1976). Again, 'hermeneutic' disciplines concerned with the interpretation and criticism of texts place greater emphasis on the social and linguistic context of a work than its author's conscious intentions. Interpretation need not be restricted by the 'surface' meaning of the text or the likely aims of the author. Nevertheless, it is important to realize that all of these theoretical approaches retain a qualified role for the decentred subject (Bubner, 1981). By virtue of its class location the proletariat is destined to achieve true consciousness and bring about the revolutionary overthrow of capitalism. Through psychoanalysis the self regains autonomy by coming to understand the unconscious springs of its conscious states and actions. The practice of hermeneutics promises a never perfect but always improving understanding of the text.

A more radical break with the subject can be traced to Martin Heidegger's (1889–1976) later philosophy and, in particular, his attack on Sartre's humanism. Heidegger's earlier philosophy can be seen as an important contribution to existentialism. *Being and Time* ([1927] 1967) develops a critique of the reifying categories of Western metaphysics and science that has affinities with both the Frankfurt School's critique of instrumental reason and Kierkegaard's espousal of subjective truth against contemplative theory. His original approach sets him on the quest for an alternative understanding of 'Being' from the standpoint of the experiencing subject or '*Dasein*' (literally 'being there'), which is uniquely not just an 'entity . . . among other entities' but one concerned about its own existence – it is distinguished by the fact that 'in its very Being that Being is an *issue* for it' ([1927] 1967, p. 32). Heidegger's first soundings of Being take the form of sensitive descriptions of 'Being-in-the-world' and 'Being-with-others' from the perspective of *Dasein*. In Heidegger's later writings, however, his ostensibly existentialist account of individual existence as 'anxious' and 'caring', 'authentic' or 'fallen' gives way to a more impersonal preoccupation with Being. Heidegger now wishes to divert our 'thinking' from the limited perspective of the Cartesian subject towards a greater 'attentiveness to Being'. Central to this change of emphasis is an overriding concern with language as 'the house of Being'(Heidegger, [1947] 1977, pp. 210, 193).

Crucially, language is something that transcends individual consciousness and existence. The shift of emphasis from existence to language serves, therefore, to undermine the privileged position accorded to the subject by humanism, casting doubt both on the freely choosing subject of existentialism and the collective political subject of Marxism. In his 'Letter on Humanism' (1947), Heidegger is explicitly critical of Sartre's humanist and Cartesian claim that 'one must take subjectivity as his point of departure' (Sartre, 1977, p. 17) (see previous section). Heidegger's anti-humanism leads instead

to 'thinking' as the 'letting-be' of transcendent Being. Though for Heidegger this attitude 'can be theistic as little as atheistic' ([1947] 1977, p. 230), it undoubtedly represents a rejection of the anthropocentrism of the Enlightenment. The political implications of Heidegger's anti-humanism are, however, less clear. Although he claims that it does not imply an active 'affirmation of inhumanity', Heidegger's associations with national socialism and his subsequent tardiness in disowning them are at least grounds for caution (see Lacoue-Labarthe, 1990; Lyotard, 1990). The almost mystical injunction to be attentive to Being, like the call to obey the will of God, seems compatible with almost any conceivable political stance. What is worse, the evident difficulty of 'thinking' in its full Heideggerian sense might encourage authoritarianism, since only the initiate can lay claim to the appropriate relationship to Being. On the other hand, humanist philosophies have their own share of historical guilt, as Althusser's discussion of Stalinism as a form of humanism (Althusser, 1969) and later postmodernist critiques imply (see next section).

Another source of philosophical anti-humanism concerned with language is the structural linguistics of Ferdinand de Saussure (1857–1913). Saussure focused on the distinction between '*langue*' – or language as a system of forms or 'signs' – and '*parole*' in the sense of 'actual speech, the speech acts which are made possible by the language' (Culler, 1976, p. 29; Saussure, [1916] 1959). Saussure's emphasis on *langue* undermines the notion that words are related to meanings either through conscious acts of intending on the part of the subject or through some kind of mental association. Rather, the meaning of particular utterances always depends on the pre-existing system of signs, the differential relations existing between the system of linguistic forms of a language at a particular time: 'Since the sign has no necessary core which must persist, it must be defined as a relational entity, in its relations to other signs' (Culler, 1976, p. 36). When language is considered in this way, it becomes obvious that the association between a particular 'signifier' (a word considered as sound or physical inscription) and its 'signified' (or meaning) is arbitrary. The only essential feature of any language or code is that it is possible to distinguish between its elements. Evidently, different languages employ different signifiers in order to express the same signified. What is more, different languages embody different and sometimes incommensurable conceptual distinctions, with the result that translation between languages is rarely straightforward and often inexact. The most influential implication of Saussure's analysis for continental philosophy is that the speaking subject – and by extension also the subject of knowledge and consciousness – is decisively removed from its central position.

The critique of the subject effected by Heidegger and Saussure is paralleled by an array of 'structuralist' approaches in the social and human sciences. Influenced by structural linguistics, these approaches consider social structures more generally not as the intentional products of human subjects, but as complex systems existing prior to these subjects and unfolding according to their own specific rules – whether as modes of production, kinship systems or elements of the unconscious (see Piaget, 1971; Pettit, 1975). Perhaps most influentially, the structural anthropology of Claude Lévi-Strauss (1908–) inspired a generation of social scientists. His analyses of society and culture as systems of differentially related elements are characteristically structuralist in that they depend neither on some overarching philosophy of history nor on the attribution of particular intentions to social agents. Acknowledging his debt to Saussure and

Jakobson, Lévi-Strauss claims that 'anthropology draws its originality from the unconscious nature of collective phenomena' (Lévi-Strauss, 1968, p. 18; cf. 1969). Like the rules of a language, customs and rituals are usually followed without being explicitly understood or consciously chosen. Althusser's structuralist Marxism is another well-known and explicitly anti-humanist product of this current of thought (Althusser, 1969; Anderson, 1983, ch. 2).

Michel Foucault (1926–84) is responsible for one of the most influential contributions to anti-humanist thought. Although never straightforwardly a structuralist himself – he was influenced more directly by Nietzsche and Heidegger – Foucault's work also implies a radical critique of the subject. In a series of historical studies Foucault charts the ascendancy of forms of knowledge and rationality distinctive of Western culture. In *Madness and Civilization* he describes the emergence of a new understanding and treatment of madness as the 'other' of reason. He explores the interrelationships between new ways of dealing with the insane, such as confinement in the asylum, and novel forms of knowledge or 'discourse' (Foucault, 1971). In other works he describes a parallel series of transformations characteristic of modernity. Medicine develops alongside the birth of the clinic (1973). Criminology emerges as the scientific face of the prison (1977a). In each case, 'human sciences' are implicated in the unprecedented expansion of 'disciplinary powers' deployed by both state and non-state institutions, producing 'subjected and practised bodies, "docile" bodies' (1977a, p. 138). A characteristic architectural embodiment of disciplinary power is Bentham's 'panopticon', his project for a prison whose inmates are always visible to warders but unable to see one another. The panopticon is a way of 'arranging spatial unities' in order 'to induce in the inmate a state of conscious and permanent visibility that assures the automatic functioning of power' (1977a, pp. 200–1). After the 'Classical Age' of the eighteenth century, disciplinary power assumes more and more the form of a 'generalized surveillance', striving for positive effects throughout society in order to increase the productivity of populations.

Foucault's account of the emergence of modern reason, with the associated institutions and practices of disciplinary power, has affinities both with Weber's account of the irreversible rationalization of society and the Frankfurt School's critique of instrumental rationality. Foucault's originality lies in his attempt to chart the discontinuities and ruptures of 'discursive formations', whilst dispensing with the humanist conceptions infecting the human sciences. Foucault proposes:

> an analysis which can account for the constitution of the subject within the historical texture . . . a form of history which accounts for the constitution of knowledge [*savoirs*], discourses, domains of objects, etc., without having to refer to a subject. (1979, p. 35)

The subject must not be taken for granted because, as his more detailed accounts of the characteristic institutions of modernity imply, the subject and its projects are tainted, 'subjected' products of an increasingly invasive and productive micro-power. At the same time, Foucault seeks to dispense with the collective, 'macro' subjects of Hegelian and Marxist philosophies of history. Even in his early methodological writings Foucault emphasizes the discontinuities and ruptures of historical transformation as opposed to the continuity implied by notions of tradition, influence, development or evolution. He

refers approvingly to the model of Nietzsche's 'genealogy' of morality (Foucault, 1976, Introduction). The genealogist traces institutions and discourses to 'naked struggles of power' rather than to any legitimating origin or essential goal. Genealogical history should 'record the singularity of events outside of any monotonous finality', 'maintain passing events in their proper dispersion' (Foucault, 1984, pp. 76, 81). It is Nietzschean 'will to power' that underlies historical change, not some teleological narrative or philosophy of history.

Any theoretical approach like Marxism that subsumes the diversity of historical events under a single explanatory framework or historical teleology is an example of what Foucault calls 'totalizing theory' (Foucault, 1977b). Totalizing theories are typically an excuse for domination. To theorize the manifold variety and contingency of life as an organized totality is a strategy of power which, even in the hands of critical intellectuals and socialist militants, inevitably reinforces domination. As the experience of bureaucratic state socialism demonstrates, experts in the totalizing theory use it both in order to legitimate their authority and as an instrument for their exercise of power. Together with his collaborator Gilles Deleuze (1925–95), Foucault proposes instead a less authoritarian role for theory. Rather than a single 'master' theory, there should be a plurality of theories. Social and political theory should be a 'local and regional practice'. The role of the intellectual should also be different:

> The intellectual's role is no longer to place himself 'somewhat ahead and to the side' in order to express the stifled truth of the collectivity; rather it is to struggle against the forms of power that transform him into its object and instrument in the sphere of 'knowledge', 'truth', 'consciousness', and 'discourse'. (Foucault, 1977b, p. 208)

Intellectuals should not put themselves forward as representatives of the people or vanguard of the proletariat. They should avoid 'the indignity of speaking for others' (Deleuze in Foucault, 1977b, p. 209; cf. McNay, 1994). Deleuze's further collaboration with Félix Guattari has produced a number of influential works in this spirit, combining post-structuralist philosophy with radical psychiatry, most notably *Anti-Oedipus* and *A Thousand Plateaus* (Deleuze and Guattari, 1977 and 1988; see Patton, 2000). Their radical post-structuralism is given a further twist by Michael Hardt (1960–) and Antonio Negri (1933–). With additional inspiration from 'autonomist Marxism' and Spinoza, they attempt to refashion Marxist categories in the context of post-Cold War neoliberal globalization, American hegemony and neo-imperialism (Hardt and Negri, 2000).

Closer in spirit to the later Heidegger is the work of Jacques Derrida (1930–2004) and, most influentially, his advocacy of a critical 'deconstruction' of the forms of discourse characteristic of Western rationality (cf. Norris, 1987). His major impact on the philosophical scene dates from 1967, with the publication of three major works: *Speech and Phenomena* (1973), *Of Grammatology* (1976) and *Writing and Difference* (1978). Derrida's notion of deconstruction can be understood in terms of his critical encounter with Husserlian phenomenology. Edmund Husserl's (1859–1938) philosophical project was also directed against the reductive rationality of the Enlightenment. Husserl hopes, in Peter Dews's words, that:

> the unprejudiced description of the essential structures of experience will constitute a new, rigorously scientific philosophy which will place the empirical sciences themselves on an apodictic basis, while at the same time . . . preventing the 'objectivist' impetus of the sciences from leading to a culturally disastrous obliteration of awareness of the constituting role of subjectivity. (1987, p. 6)

The 'phenomenological' method aims to describe the contents of consciousness whilst abstracting from any question of the empirical existence of their 'intentional' objects in the world. Through this process of '*epoché*' or 'bracketing', Husserl supposes that in all experience 'it is possible to distinguish *what* is presented from *the fact that* it is presented, the essential from the empirical' (Dews, 1987, p. 5). Derrida endorses Husserl's hostility to the pretensions of positivistic science, but at the same time he recognizes the difficulties facing the project in its original form (see also Pivčević, 1970, ch. 14). In a series of arguments, sometimes reminiscent of Wittgenstein's more analytical philosophy of language, Derrida transforms phenomenology with the help of structuralist arguments and insights. By following the structuralist path from meaning to sign, from the subject of *parole* to the anonymous system of *langue*, Derrida in effect carries anti-humanism to the heart of metaphysics.

A prime target is what Derrida calls the 'metaphysics of presence'. Husserl's phenomenology is an example of the metaphysics of presence, because the contents of consciousness are understood as essentially independent of their embodiment in language. Language is regarded simply as a medium for the expression or communication of meanings. The 'acts of meaning-intention', and the pure meanings intended or introspected, are what is essential for phenomenology; the sign (*qua* signifier) is simply the incidental vehicle of thought. According to Derrida, however, this approach ignores the quasi-transcendental role of the signifier. This lapse occurs because, failing to escape the 'phonocentrism' of the Western philosophical tradition, Husserl privileges the immediacy and presence of speech over writing. Writing makes it obvious that meaning need not, indeed cannot, be guaranteed by the 'living presence' of the subject, but rather is generated by the system of oppositions between signs, the *langue* identified by Saussure as the basis of meaning. Crucially, however, once these characteristics of writing are identified, they can be recognized in other forms of thought and discourse as well. Every use of language involves representation and is, therefore, an instance of 'writing' in Derrida's extended sense.

Derrida's account of representation as a kind of writing has far-reaching implications. Radicalizing Saussure's approach, Derrida claims that the recognition of sameness and difference involved in all acts of representation also necessarily refers to a temporal context. There is an irreducible interdependence of 'difference' and 'deferral', which he neologistically describes as '*différance*':

> What is written as *différance*, then, will be the playing movement that 'produces' – by means of something that is not simply an activity – these differences, these effects of difference. This does not mean that the *différance* that produces differences is somehow before them, in a simple and unmodified – in-different – present. *Différance* is the non-full, non-simple, structured and differentiating origin of differences. Thus, the name 'origin' no longer suits it. (1982, p. 11)

Appropriately enough, although 'différance' and the usual French word 'différence' are written differently, they are pronounced the same. Because of these fundamental features of representation, 'writing' cannot be tied to a single, univocal meaning; it cannot, in particular, be referred to the originary meaning intended by either author or speaker. The interpreter cannot even hope for the endlessly improving approximations of hermeneutic interpretation. Rather, the interpretation of texts depends on a potentially infinite array of possible contexts and interpreters, and so leads to what Derrida calls 'dissemination', the endless dispersion and multiplication of meanings. Dissemination 'marks an irreducible and *generative* multiplicity' (Derrida, 1981, p. 45). It undermines all fixities of interpretation, proliferates rather than reduces instances of ambiguity.

Derrida's account of the *différance* implicit in all thought informs the critical practice of 'deconstruction'. Deconstruction is directed against the metaphysics of presence – it is 'a means of carrying out this going beyond being, beyond being as presence, at least' (Derrida in Mortley, 1991, p. 97). A deconstructive reading of a philosophical text is designed to bring into the open the tensions between its logical and rhetorical construction, tensions that reflect the problematic relationship between thinking and writing. Derrida pays particular attention to the unregarded 'margins' of texts, their images and metaphors, the rhetorical resources they find themselves compelled to exploit. Deconstruction is put to explicitly anti-Hegelian purposes as well: 'If there were a definition of différance, it would be precisely the limit, the interruption, the destruction of the Hegelian *relève* wherever it operates' (Derrida, 1981, pp. 40–1; '*relève*' is Derrida's word for Hegelian *Aufhebung* or 'transcendence'). The Hegelian dialectic strives vainly to absorb and neutralize contradictions in a higher synthesis which, according to Derrida, is always unstable and incomplete. We should recognize instead the irreducible tensions inherent in the basic conceptual oppositions of Western metaphysical and political thought. Furthermore, these oppositions are 'violent hierarchies', in the sense that one term is invariably conceived as superior to, and dominant over, the other. Typical are oppositions of mind and body, masculine and feminine, reason and emotion, sameness and difference. Derrida acknowledges, however, that an absolute break with the dichotomies of Western metaphysics is impossible. Deconstruction demands an 'interminable analysis', if it is 'to avoid both simply *neutralizing* the binary oppositions of metaphysics and simply *residing* within the closed field of those oppositions, thereby confirming it' (Derrida, 1981, pp. 41–2).

The deconstruction of 'violent hierarchies' also has implications for Western political thought. Deconstruction brings into the open the marginalization or suppression of difference that is masked by the ostensible neutrality and universality of political discourse. Deconstruction bears witness, in McCarthy's words, 'to the other of Western rationalism' and so counteracts the associated 'repression of the other in nature, in ourselves, in other persons and other peoples . . . (it) speaks on behalf of what does not fit into our schemes and patiently advocates letting the other be in its otherness' (McCarthy, 1989–90, p. 153–4). Derridean manoeuvres have influenced a wide range of other theorists, particularly those associated with postmodernism and French feminism (see next section). Michael Ryan, for example, develops an anti-authoritarian socialism to be 'worked out, as a texture and not as a punctual instance of power', and for which unity does not imply an organized and authoritarian movement but 'the

articulation of a diverse, differentiated plurality' (1982, pp. 219, 215). Derrida himself sees the refusal of the 'longing for an impossible truth' as politically radical (Dews, 1987, p. 34). He has written with admiration of the role of Nelson Mandela in the resistance to apartheid (Derrida, 1987). He has made plain his opposition to neocolonialism and support for feminism. However, the politics of deconstruction is ultimately constrained by its own stringently critical attitude to all systematic theorizing. Where Derrida has made overtly political comments, they are often undercut by irony or the claim that 'all of our political codes and terminologies still remain fundamentally metaphysical' (Derrida in McCarthy, 1989–90, p. 157). On McCarthy's analysis, Derrida resists the perspective of the participant in social life, who is forced to adopt a position and assume certain values (1989–90, p. 156). But, as McCarthy points out, to confine oneself to the sceptical role of critical observer is, in the end, tantamount to acceptance of the status quo (cf. Boyne, 1990; Bennett, 2004).

Postmodernism and the Flight from Western History

In its most radical form the anti-humanist critique of the subject challenges the fundamental categories of Western political thought and practice. And it is not just the prevailing forms of power and rationality, the capitalist rationalization of production or the bureaucratic rationalization of the state, which are deconstructed. Major sources of opposition to these social and political formations are also called into question. Both Marxism and existentialism are undermined as varieties of humanism. The Enlightenment tradition as well as some of its most virulent critics are implicated in the shameful events of recent European history, from imperialist genocide to the gulag and the Holocaust. Only an even more radical critique promises release from a modernist project that can no longer hide its guilty secrets. This 'postmodernist' response to the debacle of Western civilization holds, in effect, that every possible move in the Enlightenment game has been played. Postmodernism proposes a last, desperate leap from the fateful complex of Western history.

Jean-François Lyotard (1924–98) is perhaps the clearest exponent of the postmodernist case. During his career Lyotard held a variety of political positions, from neo-Marxism and 'spontaneist' anarchism to a scepticism which, for unsympathetic critics, is tantamount to conservatism. His account of postmodernism is articulated in a short but influential description of the *Postmodern Condition*. Characteristic of modernity, according to Lyotard, is its reliance on 'metanarratives' for the legitimation of both science and the state, a reliance that is intrinsic to 'the choice called the Occident' (1984, p. 8). Metanarratives can take a variety of forms, 'such as the dialectics of Spirit, the hermeneutics of meaning, the emancipation of the rational or working subject, or the creation of wealth' (p. xxiii). However, Lyotard isolates two basic types, representative of both main strands of post-Enlightenment thought: the 'narrative of emancipation', implicit in modern science and ideas of progress; and the 'speculative narrative' of Hegelianism and Marxism (p. 37). According to Lyotard, our faith in these metanarratives has been shaken by far-reaching developments in both society and culture. He adopts the notion of 'post-industrial' society to refer to an age dominated by a mode of production in which knowledge and information technology play the central role. The

cultural and intellectual counterpart of this social form is a postmodern culture, characterized by 'incredulity toward meta-narratives' (p. xxiv). Ironically, loss of faith in modernity is an indirect result of its own novel demand for rational legitimation.

The political conclusions Lyotard draws from this discussion are largely sceptical and anti-authoritarian. Society can no longer be artificially homogenized or unified according to some grand totalizing theory. We should recognize society as a 'heterogeneity of language games' or 'institutions in patches'. Far from resembling some application of Newtonian mechanics, society consists of 'clouds of sociality' more amenable to a 'pragmatics of language particles' (1984, pp. xxiv–xxv). Even the consensus theory of Habermas reduces heterogeneity to an oppressive unity, because it ignores the irreducible diversity of society: 'Consensus has become an outmoded and suspect value' (ibid., p. 66). Only the diversity and heterogeneity of social and cultural forms offers some resistance to the 'spirit of performativity', the attempt to reduce society to an efficient system guaranteeing 'the best possible input/output equation' (ibid., pp. 45–6). Only temporary and local consensus is desirable, only provisional agreements should be sought. The price to be paid for any residual nostalgia for totalizing theory is 'terror', 'the efficiency gained by eliminating, or threatening to eliminate, a player from the language game one shares with him' (ibid., p. 64). Artistic modernism is an ally in this 'war on totality', but only if it is understood as a constantly renewed challenge to the rules of image and narration, even rules instituted by earlier modernisms: 'Postmodernism thus understood is not modernism at its end but in the nascent state, and this state is constant' (Lyotard, 1984, p. 79; cf. A. Benjamin, 1992).

The postmodern diagnosis has a clear critical edge. It can be seen as an important response to the catastrophes of recent history. For postmodernists, fascism and Soviet communism demonstrate the dangers of totalizing theory – any attempt to subordinate the whole of society to the will of the nation or the goal of socialist utopia. Postmodernists seek to disrupt all forms of discourse, and particularly forms of political discourse that might encourage the totalitarian suppression of diversity. They are opposed to the rationalistic reduction or suppression of the 'other' for the sake of the coherence of one's own identity. They seek to entrench 'difference' and a multiplicity of 'subject positions' (Laclau and Mouffe, 1985). They are suspicious of the claims of all leaders, particularly leaders who claim to be experts or intellectuals. They are even suspicious of intellectuals like Habermas who claim to be authorities on democratic legitimacy. More difficult to discern is the *constructive* politics of postmodernism (see Bennett, 2004). Certainly, Lyotard claims that 'justice as a value is neither outmoded nor suspect' (1984, p. 66). But his positive steps towards an idea of justice – his commitment to difference and diversity as well as to the local and the provisional – do not take us very far. Other writers have done more to develop a distinctively postmodernist politics. Iris Marion Young presents an acute challenge to the ideal of community in socialist and feminist thought. The desire for 'mutual identification in social relations' is a desire she associates with sectarianism, chauvinism and even racism. The desire for unity and wholeness 'generates borders, dichotomies, and exclusions' (Young, 1990a, p. 301; cf. 1990b). Carol Gilligan emphasizes the infinite attention to the needs of the other person involved in an 'ethic of care' (Gilligan, 1982). The celebration of otherness and difference has also influenced the feminisms of Julia Kristeva, Jane Flax and Alice Jardine (Nicholson, 1990; Deutscher, 1997). The 'post-colonialism' of Edward Said, Gayatri

Spivak and Homi Bhabha explores the marginalizing discourse of 'Orientalism' and the resistance of 'subaltern identities' (Said, 1978; Spivak, 1999; Bhabha, 1994; cf. Connor, 1989, ch. 9). Baudrillard's 'political economy of the sign' reproduces themes from the Situationist analysis of the 'society of the spectacle', though, once again, it is difficult to extract a constructive politics from his writings (see Baudrillard, 1988; cf. Kellner, 1989).

Despite the insights of postmodernism, it is not clear whether we can ultimately do without universal categories of oppression and exploitation, or universal ideals of liberation, equality and community. Lyotard's case against critical theory does not seem decisive. The claim that only a local and provisional consensus should be sought is hardly incompatible with Habermas's account. For Habermas, genuine consensus can be approached but never finally achieved. Actual agreements are always provisional and subject to revision, so there is never any warrant for the dogmatic chauvinism of those who impose their beliefs on others because they *know* they are right. In fact, if Habermas is correct, the unrealizable anticipation of genuine consensus is the only basis for any challenge to the dogmatic assertion of truth (Bernstein, 1985; Habermas, 1987).

In the end, it is the negative or critical implications of postmodernism that are most compelling. The commitment to difference surely implies an evaluative framework, an implicit theory of justice that condemns any suppression of otherness or diversity. But how can postmodernists provide a more systematic account of justice without violating their own austerely critical principles? In the absence of a more systematic basis for political practice, we are left with few options. If we simply relapse into political scepticism and apathy, this choice is surely tantamount to conservatism. To see no good reason for active political engagement is inevitably to accept the status quo. Some postmodernists are indeed happy to celebrate the possibilities offered by contemporary capitalism (cf. Bennett, 2004). But as Jane Bennett also points out, postmodernist thinkers continue to develop a range of radical perspectives on politics and society as well. Postmodern insistence on the inevitable incompleteness of our conceptual schemes – the inevitable failure of any attempt to capture either reality or justice once and for all – at least serves to entrench an always self-critical commitment to difference and an always elusive becoming.

At the risk of insisting too strongly on a certain narrative coherence and finality (not a happy ending but an ending), the dispute between Habermasian critical theory and postmodernism can be seen as perhaps the central argument of the contemporary debate within the continental tradition (cf. White, 1991; Hoy and McCarthy, 1994; Honneth, 1995; Falzon, 1998). According to White, postmodernist approaches insist on a respect for otherness that cannot be guaranteed even within a discourse ethics grounded in principled openness to new ideas and participants. More helpful in this regard are Foucault's genealogical histories of modernity, which 'incite the experience of discord or discrepancy between the social construction of self, truth and rationality and that which does not fit neatly within their folds'. An 'ontology of discord' is necessary to entrench our fundamental and irreducible 'responsibility to otherness' (White, 1991, pp. 19–20). But responsibility to otherness does not eliminate our complementary 'responsibility to act', so we cannot do without the kind of procedural norms elaborated most convincingly in Habermas's discourse ethics. To seek to resolve the

tension between these two kinds of responsibility is obviously beyond the scope of this essay. Indeed, if White is correct, we should rather seek to hold on to the complementary insights of both. In any case, to hope for the eventual reconciliation or synthesis of the critical insights of postmodernism with other major traditions of post-Enlightenment thought would be to theorize the quarrel between modernists and postmodernists in terms more amenable to a critical theory of Hegelian and Marxist provenance. It seems we are left with an uncomfortable dilemma. There is surely a continuing need for persuasive consensual principles of political engagement and critique, especially for the sake of those who have not even begun to benefit from the political gains of modernity. On the other hand, postmodernists may also be right in thinking that political action is always questionable and sometimes even dangerous. Political engagement is unavoidable, its effectiveness always in doubt.

References

Adorno, T. W.: *Minima Moralia: Reflections from a Damaged Life*, trans. E. F. N. Jephcott (London: New Left Books, 1974).

—: *Negative Dialectics* (1966), trans. E. B. Ashton (London and New York: Routledge, 1990).

—: *The Culture Industry: Selected Essays on Mass Culture*, ed. J. M. Bernstein (London and New York: Routledge, 1991).

Adorno, T. W., Frenkel-Brunswik, E., Levinson, D. J. and Sanford, R. N.: *The Authoritarian Personality* (New York: Harper and Row, 1950).

Adorno, T. W. et al.: *The Positivist Dispute in German Sociology*, trans. G. Adey and D. Frisby (London: Heinemann Educational Books, 1976).

Allison, H. E.: *Kant's Transcendental Idealism: An Interpretation and Defense* (New Haven, Conn. and London: Yale University Press, 1983).

Althusser, L.: 'Marxism and humanism', in *For Marx*, trans. B. Brewster (London: Allen Lane, 1969).

Anderson, P.: *Considerations on Western Marxism* (London: Verso, 1979).

—: *In the Tracks of Historical Materialism* (London: Verso, 1983).

Ansell-Pearson, K.: *Nietzsche contra Rousseau* (Cambridge: Cambridge University Press, 1991).

Aronson, R.: *Sartre: Philosophy in the World* (London: Verso, 1980).

Ayer, A. J.: *Language, Truth and Logic* (1946); (Harmondsworth: Penguin, 1971).

Bacon, F.: *The Advancement of Learning* (1605), ed. G. W. Kitchin (London: Dent, 1973).

Bair, D.: *Simone de Beauvoir* (London: Vintage, 1990).

Baudrillard, J.: *Selected Writings*, trans. M. Poster (Cambridge: Polity, 1988).

Baynes, K.: 'Democracy and the *Rechtstaat*: Habermas's *Faktizität und Geltung*', in *The Cambridge Companion to Habermas*, ed. S. K. White (Cambridge and New York: Cambridge University Press, 1995), pp. 201–32.

Beauvoir, S. de: *Pyrrhus et Cinéas* (Paris: Gallimard, 1944).

—: *The Second Sex* (1949), trans. H. M. Parshley (Harmondsworth: Penguin, 1972).

Benhabib, S. and Dallmayr, F.: *The Communicative Ethics Controversy* (Cambridge, Mass. and London: MIT, 1990).

Benjamin, A., ed.: *Judging Lyotard* (London and New York: Routledge, 1992).

Benjamin, W.: 'The work of art in the age of mechanical reproduction', in *Illuminations*, ed. H. Arendt, trans. H. Zohn (London: Fontana/Collins, 1968).

Bennett, J.: 'Postmodern approaches to political theory', in *Handbook of Political Theory*, ed. G. F. Gaus and C. Kukathas (London and Thousand Oaks, Calif.: Sage, 2004), Ch. 4, pp. 46–56.

Bernstein, R. J., ed.: *Habermas and Modernity* (Cambridge: Polity, 1985).

Bhabha, H. K.: *The Location of Culture* (London and New York: Routledge, 1994).

Boyne, R.: *Foucault and Derrida* (London and Boston, Mass.: Unwin Hyman, 1990).

Bubner, R.: *Modern German Philosophy*, trans. E. Matthews (Cambridge and New York: Cambridge University Press, 1981).

Camus, A.: *The Rebel*, trans. A. Bower (New York: Alfred A. Knopf, 1954).

Cassirer, E.: *The Philosophy of the Enlightenment*, trans. F. C. A. Koelln and J. P. Pettegrove (Princeton, NJ: Princeton University Press, 1951).

Connerton, P.: *The Tragedy of Enlightenment* (Cambridge and New York: Cambridge University Press, 1980).

Connor, S.: *Postmodernist Culture* (Oxford and Cambridge, Mass.: Basil Blackwell, 1989).

Critchley, S.: *Continental Philosophy: A Very Short Introduction* (Oxford and New York: Oxford University Press, 2001).

Cruickshank, J.: *Albert Camus and the Literature of Revolt* (Oxford: Oxford University Press, 1960).

Culler, J.: *Saussure* (London: Fontana/Collins, 1976).

Deleuze, G.: *Nietzsche and Philosophy*, trans. H. Tomlinson (London: Athlone Press, 1983).

Deleuze, G. and Guattari, F.: *Anti-Oedipus: Capitalism and Schizophrenia*, trans. R. Hurley et al. (New York: Viking, 1977).

—: *A Thousand Plateaus: Capitalism and Schizophrenia*, trans. B. Massumi (London: Athlone Press, 1988).

Derrida, J.: *Speech and Phenomena*, trans. D. B. Allison (Evanston, Ill.: Northwestern University Press, 1973).

—: *Of Grammatology*, trans. G. C. Spivak (Baltimore, Md and London: Johns Hopkins University Press, 1976).

—: *Writing and Difference*, trans. A. Bass (London: Routledge and Kegan Paul, 1978; Chicago, Ill.: Chicago University Press, 1978).

—: *Positions*, trans. A. Bass (Chicago, Ill.: University of Chicago Press, 1981).

—: *Margins of Philosophy*, trans. A. Bass (Chicago, Ill.: University of Chicago Press, 1982).

—: 'The laws of reflection: Nelson Mandela, in admiration', in *For Nelson Mandela*, ed. J. Derrida and M. Tlili (New York: Seaver, 1987).

Descartes, R.: 'Meditations on first philosophy', in *The Philosophical Works of Descartes*, 2 vols; vol. 1, trans. E. S. Haldane and G. R. T. Ross (London and New York: Dover, 1931).

Deutscher, P.: *Yielding Gender: Feminism, Deconstruction and the History of Philosophy* (London and New York: Routledge, 1997).

Dews, P.: 'Introduction' to J. Habermas, in *Autonomy and Solidarity*, ed. P. Dews (London: Verso, 1986).

—: *Logics of Disintegration* (London and New York: Verso, 1987).

Dryzek, J. S.: 'Democratic political theory', in *Handbook of Political Theory*, ed. G. F. Gaus and C. Kukathas (London and Thousand Oaks, Calif.: Sage, 2004), Ch. 11, pp. 143–54.

Elliott, G.: 'Further adventures of the dialectic', in *Contemporary French Philosophy*, ed. A. Phillips Griffiths (Cambridge and New York: Cambridge University Press, 1987).

Falzon, C.: *Foucault and Social Dialogue: Beyond Fragmentation* (London and New York: Routledge, 1998).

Foucault, M.: *Madness and Civilization*, trans. T. Howard (London: Tavistock Publications, 1971).

—: *Birth of the Clinic*, trans. A. M. Sheridan Smith (New York: Random House, 1973).

—: *The Archaeology of Knowledge*, trans. A. M. Sheridan Smith (London: Tavistock, 1976).
—: *Discipline and Punish*, trans. A. Sheridan (Harmondsworth: Penguin, 1977a).
—: 'Intellectuals and power: Interview with Gilles Deleuze', in *Language, Counter-Memory, Practice*, trans. D. F. Bouchard and S. Simon (New York: Cornell University Press, 1977b).
—: 'Truth and power', in *Michel Foucault: Power, Truth, Strategy*, ed. M. Morris and P. Patton (Sydney: Feral Publications, 1979).
—: 'Nietzsche, genealogy, history', in *The Foucault Reader*, ed. P. Rabinow (New York: Pantheon, 1984).
Freud, S.: *The Psychopathology of Everyday Life*, trans. A. A. Brill (Harmondsworth: Penguin, 1938).
—: *The Interpretation of Dreams*, trans. J. Strachey (Harmondsworth: Penguin, 1976).
Gatens, M.: *Feminism and Philosophy* (Cambridge: Polity, 1991).
Geoghegan, V.: *Reason and Eros: The Social Theory of Herbert Marcuse* (London: Pluto Press, 1981).
Gilligan, C.: *In a Different Voice: Psychological Theory and Women's Development* (Cambridge, Mass. and London: Harvard University Press, 1982).
Godwin, W.: *Enquiry Concerning Political Justice* (1798), ed. I. Kramnick (Harmondsworth: Penguin, 1976).
Habermas, J.: 'Technology and science as "ideology"', in *Towards a Rational Society*, trans. J. J. Shapiro (London: Heinemann, 1971).
—: *Knowledge and Human Interests*, trans. J. J. Shapiro (London: Heinemann, 1972).
—: 'New social movements', *Telos*, 49 (1981), 33–7.
—: *The Theory of Communicative Action*, 2 vols, trans. T. McCarthy (Boston, Mass.: Beacon Press, 1984).
—: *The Philosophical Discourse of Modernity*, trans. F. G. Lawrence (Cambridge: Polity, 1987).
—: *The Structural Transformation of the Public Sphere* (1962), trans. T. Burger (Cambridge, Mass.: MIT Press, 1989).
—: *Moral Consciousness and Communicative Action*, trans. C. Lenhardt and S. W. Nicholsen (Cambridge, Mass.: MIT, 1990).
—: *Communication and the Evolution of Society*, trans. T. McCarthy (Cambridge: Polity, 1991).
—: *Justification and Application: Remarks on Discourse Ethics* (Cambridge, Mass.: MIT Press, 1993).
—: *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy*, trans. W. Rehg (Cambridge, Mass.: MIT, 1996).
Hannay, A.: *Kierkegaard* (London and New York: Routledge, 1991).
Hardt, M. and Negri, A.: *Empire* (Cambridge, Mass. and London: Harvard University Press, 2000).
Hegel, G. W. F.: *The Philosophy of Right* (1821), trans. T. M. Knox (Oxford and New York: Oxford University Press, 1952).
—: *The Phenomenology of Mind* (1807), trans. J. B. Baillie (New York and London: Harper and Row, 1967).
—: *The Philosophy of History* (1822), trans. J. Sibree (New York: Prometheus, 1991).
Heidegger, M.: *Being and Time* (1927), trans. J. Macquarrie and E. Robinson (Oxford: Blackwell, 1967).
—: 'Letter on humanism' (1947), in *Basic Writings*, ed. D. F. Krell (New York: HarperCollins, 1977).
Held, D.: *Introduction to Critical Theory* (London: Hutchinson, 1980).
Herder, J. G.: 'Essay on the origin of language' (1770), in *On the Origin of Language*, ed. J. H. Moran (New York: F. Ungar, 1967).

Holloway, J.: *Change the World Without Taking Power: The Meaning of Revolution Today*, 2nd edn (London and Ann Arbor, Mich.: Pluto Press, 2005).

Holub, R. C.: *Jürgen Habermas: Critic in the Public Sphere* (London and New York: Routledge, 1991).

Honneth, A.: 'The other of justice: Habermas and the ethical challenge of postmodernism', in *The Cambridge Companion to Habermas*, ed. S. K. White (Cambridge and New York: Cambridge University Press, 1995), pp. 289–323.

Horkheimer, M.: 'Traditional and critical theory', in *Critical Theory: Selected Essays, Max Horkheimer*, trans. M. J. O'Connell et al. (New York: Continuum, 1992).

Horkheimer, M. and Adorno, T. W.: *The Dialectic of Enlightenment*, trans. J. Cumming (London: Allen Lane, 1972).

Hoy, D. C. and McCarthy, T.: *Critical Theory* (Oxford and Cambridge, Mass.: Blackwell, 1994).

Hume, D.: *A Treatise of Human Nature* (1739–40), ed. L. A. Selby-Bigge (Oxford: Clarendon Press, 1888).

—: *Enquiries Concerning the Human Understanding and Concerning the Principles of Morals* (1777), ed. L. A. Selby-Bigge (Oxford: Clarendon Press, 1902).

—: *Dialogues Concerning Natural Religion* (1779), ed. M. Bell (London and New York: Penguin, 1990).

Husserl, E.: *Logical Investigations*, trans. J. N. Findlay (London: Routledge and Kegan Paul, 1970).

Jarvis, S.: *Adorno: A Critical Introduction* (London and New York: Routledge, 1998).

Jay, M.: *The Dialectical Imagination: A History of the Frankfurt School and the Institute of Social Research, 1923–1950* (Boston, Mass. and London: Little, Brown, 1973).

Kant, I.: 'An answer to the question: What is Enlightenment?' (1784), in *Perpetual Peace and Other Essays*, trans. T. Humphrey (Indianapolis, Ind., and Cambridge: Hackett, 1983).

—: 'Groundwork of the metaphysics of morals' (1785), in *Practical Philosophy*, trans. M. J. Gregor (Cambridge and New York: Cambridge University Press, 1996).

Kaufmann, W.: *Nietzsche* (Princeton, NJ: Princeton University Press, 1974).

Keane, J.: *Public Life and Late Capitalism* (Cambridge and New York: Cambridge University Press, 1984).

Kellner, D.: *Jean Baudrillard: From Marxism to Postmodernism and Beyond* (Stanford, Calif.: Stanford University Press, 1989).

Kierkegaard, S.: *Concluding Unscientific Postscript*, trans. D. F. Swenson and W. Lowrie (Princeton, NJ: Princeton University Press, 1941).

—: *The Concept of Dread*, trans. W. Lowrie (Princeton, NJ: Princeton University Press, 1946).

—: 'Fear and Trembling', in *Selections from the Writings of Kierkegaard*, trans. L. M. Hollander (New York: Anchor, 1960).

—: *Either Or*, trans. H. V. Kong and E. H. Kong (Princeton, NJ: Princeton University Press, 1987).

Laclau, E. and Mouffe, C.: *Hegemony and Socialist Strategy* (London: Verso, 1985).

Lacoue-Labarthe, P.: *Heidegger: Art and Politics* (Oxford: Blackwell, 1990).

Lévi-Strauss, C.: *Structural Anthropology*, trans. C. Jacobson and B. G. Schoepf (Harmondsworth: Penguin, 1968).

—: *The Elementary Structures of Kinship*, trans. J. H. Bell, J. R. von Sturmer and R. Needham (London: Eyre and Spottiswoode, 1969).

Lukács, G.: 'What is Orthodox Marxism?', in *History and Class Consciousness*, trans. R. Livingstone (London: Merlin Press, 1971).

Lukes, S.: *Marxism and Morality* (Oxford: Oxford University Press, 1987).

Lyotard, J-F.: *The Postmodern Condition*, trans. G. Bennington and B. Massumi (Manchester: Manchester University Press, 1984).
—: *Heidegger and 'the Jews'*, trans. A. Michel and M. S. Roberts (Minneapolis: University of Minnesota Press, 1990).
McCarthy, T.: *The Critical Theory of Jürgen Habermas* (London: Hutchinson, 1978).
—: 'The politics of the ineffable: Derrida's deconstructionism', *Philosophical Forum*, 21 (1989–90), 146–68.
McNay, L.: *Foucault: A Critical Introduction* (Cambridge: Polity, 1994).
Marcuse, H.: *Soviet Marxism* (London: Routledge & Kegan Paul, 1958).
—: *Eros and Civilization: A Philosophical Inquiry into Freud* (Boston, Mass.: Beacon Press, 1966).
—: *One-Dimensional Man* (London: Sphere Books, 1968a).
—: 'Philosophy and critical theory', in *Negations* (Harmondsworth: Penguin Books, 1968b).
—: *An Essay on Liberation* (Boston, Mass.: Beacon Press, 1969).
—: *Five Lectures: Psychoanalysis, Politics, and Utopia* (Boston, Mass.: Beacon Press, 1970).
—: 'Sartre's existentialism', in *Studies in Critical Philosophy* (London: New Left Books, 1972; Boston, Mass.: Beacon Press, 1973).
Marx, K.: 'Economic and philosophical manuscripts' (1932), in *Early Writings*, trans. R. Livingstone and G. Benton (Harmondsworth: Penguin Books, 1975).
—: 'Theses on Feuerbach' (1845), in *Early Writings*, trans. R. Livingstone and G. Benton (Harmondsworth: Penguin Books, 1975).
—: *The German Ideology*, ed. C. J. Arthur (London: Lawrence and Wishart, 1977).
Mechner, B. F.: *Herder's Social and Political Thought: From Enlightenment to Nationalism* (Oxford: Clarendon Press, 1965).
Mortley, R.: *French Philosophers in Conversation* (London and New York: Routledge, 1991).
Nicholson, L. J., ed.: *Feminism/Postmodernism* (New York and London: Routledge, 1990).
Nietzsche, F.: *Beyond Good and Evil*, trans. R. J. Hollingdale (Harmondsworth: Penguin, 1973).
—: *Untimely Meditations*, trans. R. J. Hollingdale (Cambridge and New York: Cambridge University Press, 1983).
Norris, C.: *Derrida* (London: Fontana/Collins, 1987).
O'Brien, C. C.: *Camus* (London: Fontana/Collins, 1970).
O'Hagan, T.: *Rousseau*, rev. edn (London and New York: Routledge, 2003).
Outhwaite, M.: *Habermas: A Critical Introduction* (Cambridge: Polity, 1994).
Patton, P.: *Deleuze and the Political* (London and New York: Routledge, 2000).
Pettit, P.: *The Concept of Structuralism* (Berkeley, Calif.: University of California Press, 1975).
Piaget, J.: *Structuralism*, trans. C. Maschler (London: Routledge and Kegan Paul, 1971).
Pivčević, E.: *Husserl and Phenomenology* (London: Hutchinson, 1970).
Plant, R.: *Hegel* (London: Allen & Unwin, 1973).
Poster, M.: *Sartre's Marxism* (London: Pluto Press, 1979).
Rousseau, J.-J.: *The Social Contract and Discourses*, trans. G. D. H. Cole (London: Dent, 1973).
—: *Emile*, trans. B. Foxley (London: Dent, 1974).
Ryan, M.: *Marxism and Deconstruction* (Baltimore, Md. and London: Johns Hopkins University Press, 1982).
Said, E.: *Orientalism: Western Conceptions of the Orient* (London: Routledge & Kegan Paul, 1978).
Sartre, J.-P.: *Being and Nothingness*, trans. H. E. Barnes (London: Methuen, 1958).
—: *Intimacy*, trans. L. Alexander (St Albans: Panther, 1960).
—: *Les Mains Sales* (London: Methuen, 1961).
—: 'Vietnam: imperialism and genocide', in *Between Existentialism and Marxism*, trans. J. Matthews (London: New Left Books, 1974).

—: *Critique of Dialectical Reason*, 2 vols; vol. 1, *Theory of Practical Ensembles*, trans. A. Sheridan-Smith (London: New Left Books, 1976).
—: *Existentialism and Humanism* (New York: Haskell, 1977).
Saussure, F. de: *Course in General Linguistics* (1916), ed. C. Bally and A. Sechehaye, trans. W. Baskin (New York and London: McGraw-Hill, 1959).
Singer, P.: *Hegel* (Oxford and New York: Oxford University Press, 1983).
Spivak, G. C.: *A Critique of Post-Colonial Reason* (Cambridge, Mass.: Harvard University Press, 1999).
Sprintzen, D. A.: *Camus: A Critical Examination* (Philadelphia, Pa.: Temple University Press, 1988).
Taylor, C.: *Hegel* (Cambridge and New York: Cambridge University Press, 1975).
Thompson, J. B. and Held, D., eds: *Habermas: Critical Debates* (London and New York: Macmillan, 1982).
Warren, M. E.: 'The self in discursive democracy', in *The Cambridge Companion to Habermas*, ed. S. K. White (Cambridge and New York: Cambridge University Press, 1995), pp. 167–200.
Weber, M.: *The Protestant Ethic and the Spirit of Capitalism*, trans. T. Parsons (London: Allen & Unwin, 1930).
West, D.: *An Introduction to Continental Philosophy* (Cambridge: Polity, 1996).
White, S. K.: *The Recent Work of Jürgen Habermas: Reason, Justice and Modernity* (Cambridge and New York: Cambridge University Press, 1988).
—: *Political Theory and Postmodernism* (Cambridge and New York: Cambridge University Press, 1991).
Whitehead, A. N. and Russell, B.: *Principia Mathematica* (1903), 3 vols (Cambridge: Cambridge University Press, 1950).
Wiggershaus, R.: *The Frankfurt School: Its History, Theories and Political Significance* (Cambridge: Polity, 1994).
Wittgenstein, L.: *Tractatus Logico-Philosophicus*, trans. D. F. Pears and B. F. McGuinness (London: Routledge and Kegan Paul, 1961).
Wolff, R. P., Moore Jr., B. and Marcuse, H.: *A Critique of Pure Tolerance* (London: Cape, 1969).
Young, I. M.: 'The ideal of community and the politics of difference', in *Feminism/Postmodernism*, ed. L. J. Nicholson (London and New York: Routledge, 1990a).
—: *Justice and the Politics of Difference* (Princeton, NJ: Princeton University Press, 1990b).

Further reading

Critchley, S.: *Continental Philosophy: A Very Short Introduction* (Oxford and New York: Oxford University Press, 2001).
Solomon, R. C.: *Continental Philosophy since 1750: The Rise and Fall of the Self* (Oxford and New York: Oxford University Press, 1988).
West, D.: *An Introduction to Continental Philosophy* (Cambridge: Polity, 1996).

Chapter 3

History

RICHARD TUCK

The relationship between the history of political thought and modern political philosophy since the late 1960s has been marked by an apparent paradox. On the one hand, a number of leading historians of political theory, such as Quentin Skinner, John Pocock and John Dunn, have at various times expressly asserted that their subject should have very little relevance for modern theory; on the other hand, many of the same historians have also been distinguished contributors to discussions among political philosophers about issues such as republicanism, democracy or justice. Moreover, these assertions have failed to discourage the philosophers, many of whom have continued the ancient practice of pillaging the classics in search of ideas and styles to be revived for their own time. (Obvious examples would be Nozick's use of Locke (1974), Kavka's use of Hobbes (1986), and maybe even Rawls' use of Kant (1971).) Some philosophers – notably Macintyre and Taylor – have gone so far as to argue that we cannot disentangle ourselves from the complex histories of our own culture, and that unhistorical political theory is both conceptually barren and morally hazardous. It would not have been surprising if the practitioners of positivist political science, of the kind which was widely accepted earlier in this century, had disclaimed any interest in the history of political thought; but what is disconcerting is that the positivist generation seems to have been more enthusiastic in principle about the modern relevance of studying the history of theories than the anti-positivist generation of the period since 1960. So I will begin this paper by trying to explain the character of the methodological debate on the history of political thought which began in the 1960s, and how far the historians were really opposed to any modern exploitation of the classic texts of political theory.

The period from 1870 to 1970 was a very strange one in the history of thinking about politics in the Anglo-American world (and, to a lesser extent, on the Continent also). There are a number of alternative ways of characterizing its strangeness. One is to point to the absence of major works on political philosophy, of a more or less familiar kind, between Sidgwick and Rawls, something that immediately struck the first reviewers of *A Theory of Justice.* Another is to remind ourselves that serious commentators in the 1950s could believe that 'for the moment . . . political philosophy is dead' (Laslett, 1956, p. vii). Yet another, and my own preferred way, is to observe that some of the major themes of traditional political thought – questions about the right way in which commodities should be produced and distributed – had been handed over to a

guild of scholars who displayed little interest in the rest of what had been taken to be political thought. Adam Smith, James Mill, John Stuart Mill, Sidgwick or Marx had not solely been economists: their work on the production and distribution of commodities was integrated into their own original moral philosophies. But the late nineteenth and early twentieth centuries saw no such figures; even Keynes was much more of a technical and specialized economist than most of the 'classical' writers had been. Since these questions were naturally enough the central issues for government to consider, political thought (in so far as there was any) came to be excessively detached from the real business of politics.

How had this state of affairs come about? In some ways, the goal of a value-free science of human conduct had been central to European culture since the Enlightenment; but what was distinctive about the later nineteenth century was this fracturing of intellectual enquiry into human behaviour between a set of technical, allegedly value-free disciplines devoted to particular aspects of social life, and a high-level and rather detached attitude to moral philosophy. Clearly, Kant's influence was important in this development, for Kant had set out the argument for just such a fracture between ethics and the human sciences. The practical implication of this distinction (though this might have disconcerted Kant himself) was that 'objective' human science came to carry more weight in thinking about human conduct than did ethics: for it was embodied in difficult, systematic and impressive works which required intellectual resources on a different scale from those devoted to moral philosophy. Thus the first generation of Kant's followers in Germany was the generation that discovered modern British political economy and turned it into a Kantian science, much to the alarm and disgust of critics such as Hegel and Marx, whose deep hostility to Kantianism rested primarily on their hostility to such a science, and on their awareness that Smithian political economy could not reasonably qualify as one.

But the influence of Kant is not enough to explain the great change that came over political theory in the late nineteenth century, particularly as that influence was not brought to bear in a steady or persistent manner. England was obviously not very open to Kantian influences as long as utilitarianism, even of a Millian sort, reigned supreme; while on the Continent the mid-century was the period of the Hegelians and other critics of Kant. Some exogenous development was needed to allow Kantianism to be adopted or re-adopted as the theoretical foundation for the human sciences, and that development is most plausibly seen as the increasing sense in the 1860s that a new kind of political economy could, after all, be the first clear example of a genuinely value-free human science.

In England, the roots of this are to be found in the mid-nineteenth-century criticisms of utilitarianism, and in particular the attack launched by philosophers such as John Grote on the idea that one can make interpersonal comparisons of utility. In his posthumously published *An Examination of the Utilitarian Philosophy*, Grote argued primarily against the well-known argument in Mill's *Utilitarianism* about 'higher' and 'lower' pleasures:

> the fact is, two pleasures cannot be tasted with a view to the comparison of them, as a chemist may taste two fluids: the utilitarian is led astray by his language, talking as he does about pleasures as if they were separate entities, independent of the mind of the

> enjoyer of them: the pleasures are always mixed with something from ourselves, which prevents us speaking, with any philosophically good result, of this sort of independent comparability among them . . .
>
> As a matter of fact we do not look upon pleasures as independent things to be thus compared with each other, but as interwoven with the rest of life, as having their history and their reasons, as involving different kinds of enjoyment in such a manner that our being able to enter into one kind is accompanied with a horror of another kind, which would entirely prevent the comparison of the one with the other as pleasures. Besides this, it must be remembered that, in the interval between the one pleasure and the other, the mind is changed: you have no permanent touchstone, no currency to be the medium of comparison. Supposing a man whose youth has been grossly vicious, whose mature age is most deeply devout: according to disposition, the view as to past life in this case will probably much differ: but most commonly I think the man will wonder that he was ever able to find pleasure at all in what he once found pleasure in. Earnestness in the later frame of mind, whatever it is, would only preclude the possibility of a cool comparison of it, as to pleasure, with the earlier one . . .
>
> We have, most of us, our own pleasures, and other people's pleasure often seem to us none at all. I cannot understand a happiness for everybody, after we have gone beyond our universal wants of meat, drink, and shelter, and till we arrive at a sphere where pleasure may be of a temper and nature which at present we cannot enter into. (Grote, 1870, pp. 53–5)

Sidgwick said the same in his *The Methods of Ethics*: 'the represented pleasantness of different feelings fluctuates and varies indefinitely with changes in the actual condition of the representing mind (or minds, in so far as we elect to be guided by others)' (Sidgwick, 1874, p. 129). (His whole discussion at this point is directly modelled on that of Grote.)

As the example of Sidgwick notoriously shows, these critics were much more effective in their arguments against utilitarianism than they were in putting forward any substantive alternative. Both Grote and Sidgwick were ostensibly committed to some modified and better-founded version of utilitarianism (Grote was a close personal friend of J. S. Mill), but neither was able in the end to advance a moral theory that commanded much support. Sidgwick revealingly remarked *à propos* of any utilitarian theory (including his own) that:

> the assumption is involved that all pleasures are capable of being compared quantitatively with one another and with all pains . . . This assumption is involved in the very notion of Maximum Happiness: as the attempt to make 'as great as possible' a sum of elements not quantitatively commensurable would be a mathematical absurdity. Therefore whatever weight is to be attached to the objections brought against this assumption (which was discussed in c.3 of Book II [from which the sentence quoted earlier was taken]) must of course tell against the present method. (1874, p. 384)

Nowhere in *The Methods of Ethics* did he give any grounds for supposing that these objections were *not* to be taken seriously. Indeed, Sidgwick is reported to have remarked gloomily just after the appearance of the first edition (of which it is true) that 'the first word of my book is "Ethics", the last word is "failure" ' (Hayward, 1901, p. xix).

However, these criticisms had made it clear that any serious account of human conduct now had to eschew interpersonal comparisons of utility. Smithian or 'classical' political economy was full of such comparisons: not only were the comparably diminishing marginal utilities of different individuals widely used in the Benthamite tradition to justify an egalitarian distribution of goods, but the labour theory of value itself was arguably based on an interpersonal comparison of utility. Labour, to Smith and his followers, was by definition disutility; and a fair exchange of commodities between two people meant that the pain one person had incurred in producing the first commodity ought to be equivalent to the pain incurred by the other person in producing the second commodity. On the face of it, therefore, the impossibility of interpersonal comparison should have led to a general scepticism about political economy; but in the 1860s a number of economists independently realized that the subject could be transformed and rescued from these difficulties.

The full story of that rescue is too long to tell here, but essentially, it fell into two phases. The first, represented by the pioneering work of Jevons, Walras and Menger, involved the explicit repudiation of interpersonal comparison. As Jevons said:

> The reader will find . . . that there is never, in any single instance, an attempt made to compare the amount of feeling in one mind with that in another. I see no means by which such comparison can be accomplished. The susceptibility of one mind may, for what we know, be a thousand times greater than that of another. But, provided that the susceptibility was different in a like ratio in all directions, we should never be able to discover the difference. Every mind is thus inscrutable to every other mind, and no common denominator of feeling seems possible. ([1871] 1888, p. 14)

Correspondingly, the labour theory disappeared from their work, to be replaced by the modern notion that a 'fair' exchange is one in which each party does better in terms of their own utility scales than they would in any possible alternative arrangement. Ironically, this new theory appeared at almost the same moment as Marx's *Capital*: the political economy whose internal contradictions Marx exposed had been replaced by one that was impervious to that critique. It is this fact, above all others, that explains the peculiar history of Marxism, and its failure to capture the highest ground inside the societies that gave birth to it.

In the work of the first generation of the new economists, there was no systematic account of *social* choice based on these principles (there is only the barest hint of such a thing, in Walras' *Elements of Pure Economics* (1954, pp. 143, 511)). Jevons admired Sidgwick, a feeling that was reciprocated, and the new political economy was seen by both men (albeit inconsistently) as something that could be fitted inside Sidgwickian utilitarianism. But it was not long before it occurred to economists that a minimalist social choice principle was possible, in the form of the famous Pareto principle put forward by Vilfredo Pareto in 1897. Essentially, Pareto simply generalized the operational definition of exchange value found in Jevons or Walras: a social arrangement of any kind was 'optimal' or 'efficient' if no alternative arrangement existed which would be judged no worse by all the participants, and better by at least one of them. The importance of the Pareto principle is that it avoids interpersonal comparisons of utility, for the social states are to be judged by the participants according to their own,

incommensurable standards of utility. On the face of it, however, it should precisely for this reason be a relatively useless principle: for what social choice is likely to be possible on the basis of such a principle? As it happened, one important social choice did turn out to be vindicated (apparently) by the Pareto principle: it was the choice of an allocation of goods in a society by a perfectly competitive market rather than by the decisions of monopolistic or oligopolistic producers. Although the rigorous demonstration of this took a great deal of intellectual effort, and was not fully achieved until the 1950s (see Debreu, 1959), the basic idea was the simple one, familiar since at least the eighteenth century, that a fully competitive economy produces more commodities than a monopolistic one, and that there must therefore exist some allocation of those commodities, which benefits everyone as much as or more than any allocation arrived at in a monopolistic economy.

Pareto himself argued that modern socialism should recognize this fact and strive to produce by social fiat the kind of allocation that would be arrived at by perfect competition; indeed, the principal defence of socialism which he put forward was precisely that it might be more effective at generating such an allocation than a real market system with its attendant failures and corruption (1971, pp. 267–9). It should not be forgotten that right across the industrialized world the late nineteenth and early twentieth centuries were the heyday of monopolistic trusts and cartels, with the newly powerful German industries in particular being deliberately and successfully organized on the basis of cartels. A politically unregulated economy was obviously very different from a perfectly competitive one. In the 1930s and 1940s, Pareto's ideas were turned against those critics of socialism and communism, such as Mises (1920), who had argued that centralized planning procedures could never work efficiently. Writers like Abram Bergson (1938; 1949) and Oscar Lange (1942) tried to wrong-foot the conservatives by accepting a Pareto optimum as the goal of social planning, and arguing that it was as easy to achieve it through the centralized distribution of goods as through a fallible capitalist mechanism. To some extent, the actual practice of certain Eastern European regimes after the Second World War followed these guidelines, though never with the success that Bergson hoped for (and in retrospect it is hard not to believe that Mises had the best of the argument). But this view of the socialist project at least had the advantage that it made sense in modern terms, and rescued socialists from the technical difficulties of authentic Marxism.

The new economics represented by Pareto and his successors was a formidable intellectual construct, a human science based on what seemed to be the most plausible candidate to date for a genuinely universal principle of morality. The Pareto principle is hard to reject as at least one component in any conceivable moral outlook; to this extent, its use as the foundation of a human science resembles the use made 250 years earlier of the principle of self-preservation. The founders of the 'science of morality' in the seventeenth century thought that they had detected a fundamental principle underpinning all possible ethical and legal systems, namely that an individual has the right to preserve himself. They then proceeded to construct elaborate accounts of the laws of nature based, as far as possible, on that principle alone, in the expectation that their accounts would prove compelling to any reader, whatever the rest of his moral theories might be. For a hundred years or more, this 'science' was as dominant in the universities of Europe as modern economics has been; its subsequent fate illustrates

how unfounded any claim may prove in the end to provide a scientific account of human conduct.

By 'scientific', both theories really meant 'universal'; although many of the modern economists have claimed that the Pareto principle is in some sense 'value-neutral', this is of course not so. At the very least, it requires that we prefer a state of affairs in which other people are better off than in the alternative, while we ourselves remain no worse off, and this presupposes that we *care* about other people's welfare when our own is not involved. Some influential moral theorists (notably Hobbes) have claimed that all altruistic sentiments are concealed egotism; if they are right, then the Pareto principle could not make sense, since if it were strictly the case that on the basis of our own welfare we were indifferent between two outcomes, we could have no good reason for preferring one to the other. To be a Paretian is to take up a determinate moral position. But it is true that it is an extremely exiguous position, and that we would be unlikely in practice to encounter many people possessing anything resembling a moral viewpoint who did not subscribe to it. The same, incidentally, might still be said about the principle of self-defence.

Nevertheless, the universality of the principles on which they were basing their subject encouraged late nineteenth- and early twentieth-century economists, and their admiring colleagues in the schools of political and social science, to suppose that it was now possible to talk about an 'objective science' of man. An extremely revealing example of this comes from the dominant economics textbook of the later twentieth century, Paul Samuelson's *Economics.* In it, he wrote:

> 'Beauty is in the eye of the beholder' is an aphorism reminding us that judgements of better or worse involve *subjective* valuations. But this does not deny that one person's nose may be *objectively* shorter than another's. Similarly, there are elements of valid reality in a given economic situation, however hard it may be to recognize and isolate them. There is not one theory of economics for Republicans and one for Democrats, one for workers and one for employers, one for the Russians and still another for the Chinese. On many basic principles concerning prices and employment, most – not all! – economists are in fairly close agreement.
>
> This statement does not mean that economists agree closely in the *policy* field. Economist A may be for full employment at any cost. Economist B may not consider it of as vital importance as price stability. Basic questions concerning right and wrong goals to be pursued cannot be settled by mere science as such. They belong in the realm of ethics and 'value judgements.' The citizenry must ultimately decide such issues. What the expert can do is point out the feasible alternatives and the true costs that may be involved in the different decisions. But still the mind must render to the heart that which is in the heart's domain. For, as Pascal said, the heart has reasons that reason will never know. (1976, pp. 7–8. This textbook was largely composed in the 1950s and 1960s)

This extract from Samuelson's *Economics* is revealing in a number of different ways. First, it shows how 'fairly close agreement' among economists was treated as evidence for 'elements of a valid reality', and how intersubjectivity was confounded in practice with objectivity. Second, it illustrates the role that ethics of a more traditional kind continued to play in the general scheme of even as 'scientific' a student of humanity as

Samuelson (whose collected essays were called his *Collected Scientific Papers*). What he called 'value-judgements' were still recognized as possessing force, and to an extent he might be regarded as a kind of Kantian; but value judgements were not to be derived from accurate thinking about the categorical imperative. Instead, they were matters of 'the heart' which 'the citizenry' must decide.

These two themes – that value judgements are not the product of systematic, rational thought, and that it is necessary in a modern society for citizens to make decisions about the moral basis of public policy – dominated the study of the history of political theory in North America (and, though characteristically to a less extreme degree, in Britain also) during the first half of the twentieth century. The study of a body of classic texts was treated, it might be said, as a way in which the motions of the heart might be regulated and future citizens exposed to a range of values which they could subsequently employ in their decision-making. As an example of this, we can take what was easily the influential textbook on the history of political thought in the middle years of this century (a book which has never been out of print since it was first published), George Sabine's *History of Political Theory* (1937). In the preface to the first edition, Sabine duly registered his own firm allegiance to the Humean claim that 'neither logic nor fact implies a value':

> Taken as a whole a political theory can hardly be said to be true. It contains among its elements certain judgements of fact, or estimates of probability, which time proves perhaps to be objectively right or wrong. It involves also certain questions of logical compatibility respecting the elements which it tries to combine. Invariably, however, it also includes valuations and predilections, personal or collective, which distort the perception of fact, the estimate of probability, and the weighing of compatibilities . . . (Sabine, [1937] 1963, p. v)

And Sabine honestly described his point of view as a 'sort of social relativism' (ibid., p. vi). A similar combination of interest in the history of the subject together with a confidence in the truth of the fact/value distinction, and in the possibility of an objective political science, is to be found in many other writers of this generation; another good example would be the Englishman George Catlin, who wrote some extraordinarily positivist works on political science in the 1930s, and followed them up with *A History of the Political Philosophers* 1950.

In its essentials, this sub-Kantian (or, perhaps, sub-Humean) alliance between the sciences of man and the history of political theory held together until the 1960s, though its avowed relativism led to some strains in the 1950s. David Easton, in an influential article in 1951, attacked the practices of the historians of political theory in the politics departments of his time, accusing them of living parasitically on past ideas and failing to deliver either a truly empirical political science or an adequate 'valuational frame of reference'. (He himself, it should be said, regarded the former as the prime goal of political theory.) Partly in response to attacks from the more narrow positivists such as this, and partly driven by an older fear of modern relativism, some distinguished historians of political thought in post-war North America emerged as sages who saw some eternal truths embodied in their subject. Hannah Arendt, Eric

Voegelin and, above all, Leo Strauss talked about the tradition represented by the classic texts of Western political thought as containing – albeit often in a fractured and deceptive form – some ancient wisdom which was not accessible to modern political science. For them as much as for Easton, Sabine's belief that no political theory can really be said to be 'true' was anathema.

However, it was also in the 1950s that the theoretical foundations of the standard view of political science came to appear much less secure. In part, this was the result of a tradition of post-Wittgensteinian scepticism about the possibility of that kind of human science (a scepticism voiced for example by Peter Winch in 1958 in his *The Idea of a Social Science*). But as important were developments within the citadel of political science itself. Historically speaking, this may have been the most important role of Kenneth Arrow's famous 'Impossibility Theorem' of 1951: for what Arrow showed, with as much rigour as any human scientist could conceivably demand, was that the programme of an educated citizenry deciding social values – the picture rather vaguely assumed by Samuelson and the others – did not make sense. Arrow accepted the fundamental premisses of early twentieth-century economics, in particular its refusal to make interpersonal comparisons and its reliance on the Pareto principle as the fundamental principle of social choice. But he denied that around this core 'science' there could be put the socially agreed set of values which the older writers had relied on, since there could be no method of reaching a coherent social ordering of the individual citizen's values which did not breach at least one of a number of very reasonable and eminently liberal conditions. It took a long time for Arrow's message to sink in (maybe not until the late 1960s, when writers such as Amartya Sen carried it to a wider audience), but his 'Theorem' made it impossible for the old trust to be placed in such an unexamined fashion in the citizenry deciding social values.

At the same time, the core 'science' became a much more politically controversial matter. As we saw earlier, it was possible for socialists in the first half of the century to be neoclassical economists, even if a strictly Marxian approach was impossible for a neoclassicist. To this extent, it was true that, as Samuelson claimed, there was one economics for both capitalist and socialist. But the socialism of Bergson or Lerner rested on a confidence that a bureaucracy could in principle allocate resources to mimic the allocations produced by a perfectly competitive market, and that the same bureaucracy could alter the allocations as necessary in order to promote some general social ends. The bureaucracy, they thought, could draw on information about the utility scales of the individual citizens and could construct a 'social welfare function', based on some commonly agreed principles, which would be sensitive to changes in individual utility functions.

The idea that a central agency could possibly either have access to or handle the amount of information that this would require was always implausible; but a fundamental blow was dealt to the picture by a number of writers on public finance in the 1950s, including Samuelson himself, as it happens (see Samuelson, 1954). They pointed out that it was in principle impossible for a bureaucracy to have accurate information of this kind in the area of public goods – that is, goods that are not acquired for individual consumption – since people would never give accurate information about the value to them of a public good if by doing so they laid themselves open to a tax in

order to pay for it. Samuelson also observed that the same would be true for any industry with decreasing costs (Samuelson, 1958). Since most important services under socialism would be public goods, or would have something of their character (such as a heavily-subsidized public transport system), these observations represented a formidable new objection to the socialist programme.

The result of this was that many economists were made aware of the very peculiar properties of an actual competitive market, and this new awareness may be reckoned the basis of the strongly conservative movements such as the Chicago School, who argues that our inability to solve these social computational problems meant that we should not even try to do so, but should leave our social decision-making as far as possible to the workings of a market which was artificially kept in perfectly competitive working order (something which Samuelson, it should be said, was not particularly keen on). Theorists who continued to favour the social provision of public goods, such as Mancur Olson in his justly famous *The Logic of Collective Action* (1965), were forced to recognize that the provision of public goods might require various techniques of coercion (such as closed shops enforced by trades unions in order to compel members to pay their dues). These developments had the unwelcome consequence that neoclassical economics ceased to appear as a politically neutral science, but rather as a challenge to the fundamental assumptions of socialism.

It was against this background of uncertainty over the orthodox political sciences that modern political philosophy emerged. In the later 1960s philosophers such as John Rawls began to believe that it was possible to provide a new set of *rational* grounds for holding various political principles, and that our political theory was not dependent on either the narrow core of universally held beliefs (such as the Pareto principle) or the wider periphery of the historically given culture of our particular society. It should of course be said that, strictly speaking, Rawls has always argued that the liberal theory of justice embodied in his work is in some sense properly to be understood as rooted in our culture; but for him it is present at such a deep level that the old project of using the historical texts of political and moral theory to develop our values is clearly unnecessary. Rawls' famous 'Kantianism' helped to give him this aloofness from the wide and complicated historical culture; it also had the great merit of helping to fit him into the story of twentieth-century political science, in which, as we have seen, the distinction between the objective science and the subjective account of value had been foundational.

Modern political philosophy thus challenged the old practice of the history of political thought. If the domain of value was amenable to rational analysis, then the traditional point of reading the classics of the genre had been removed. They could linger on as labels attached to modern views (as Locke does in Nozick's work, or Kant himself in Rawls'), but the idea that one would get one's values by actually reading and engaging with the specific text had been radically weakened.

Historians responded appropriately, and this was the beginning of the famous argument over the methodology of the history of ideas which has persisted down to our time. By general consent, the two most important manifestos for a new kind of history of political thought appeared in the late 1960s. John Dunn's 'The Identity of the History of Ideas' (1968), and Quentin Skinner, 'Meaning and Understanding in the History of Ideas' (1969). Skinner's was the longer and more comprehensive of the

two, and has attracted most subsequent discussion; one of its advantages was that he clearly located his targets among modern political scientists and (in a rare unguarded moment) drew the most explicit conclusion about the relationship between history and theory:

> I turn first to consider the methodology dictated by the claim that the *text* itself should form the self-sufficient object of inquiry and understanding. For it is this assumption which continues to govern the largest number of studies, to raise the widest philosophical issues, and to give rise to the largest number of confusions. This approach itself is logically tied, in the history of ideas no less than in more strictly literary studies, to a particular form of justification for conducting the study itself. The whole point, it is characteristically said, of studying past works of philosophy (or literature) must be that they contain (in a favoured phrase) 'timeless elements', in the form of 'universal ideas', even a 'dateless wisdom' with 'universal application'.
>
> Now the historian who adopts such a view has already committed himself, in effect, on the question of how best to gain an understanding of such 'classic texts'. For if the whole point of such a study is conceived in terms of recovering the 'timeless questions and answers' posed in the 'great books', and so of demonstrating their continuing 'relevance', it must be not merely possible, but essential, for the historian to concentrate simply on what each of the classic writers has *said* about each of these 'fundamental concepts' and 'abiding questions'. The aim, in short, must be to provide a 're-appraisal of the classic writings, quite apart from the context of historical development, as perennially important attempts to set down universal propositions about political reality'. For to suggest instead that a knowledge of the social context is a necessary condition for an understanding of the classic texts is equivalent to denying that they do contain any elements of timeless and perennial interest, and is thus equivalent to removing the whole point of studying what they said. ([1969] 1988, p. 30)

In the footnotes to this passage, a mixture of conventional political scientists such as Catlin and critics of political science such as Leo Strauss were listed as the figures Skinner had in mind. Later in the article, Skinner drew the principal conclusion about the consequence of treating the classic texts as historically specific *actions*:

> All I wish to insist is that whenever it is claimed that the point of the historical study of such questions is that we may learn directly from the *answers*, it will be found that what *counts* as an answer will usually look, in a different culture or period, so different in itself that it can hardly be in the least useful even to go on thinking of the relevant questions as being 'the same' in the required sense at all. More crudely: we must learn to do our own thinking for ourselves. (ibid., p. 66)

It is clear that Dunn had the same kind of idea in mind when in the previous year he had complained that:

> few branches of the history of ideas have been written as the history of an *activity.* Complicated structures of ideas, arranged in a manner approximating as close as may be (frequently closer than the evidence permits) to deductive systems have been examined at different points in time or their morphology traced over the centuries. Reified reconstructions of a great man's more accessible notions have been compared with those of other

> great men; hence the weird tendency of much writing, in the history of political thought more especially, to be made up of what propositions in what great books remind the author of what propositions in what other great books . . . ([1968] 1980, p. 15)

Moreover he produced in these years a clear and comprehensive example of a new methodology, in his famous book *The Political Thought of John Locke* (1969), in which he vastly extended the insights of Peter Laslett (see below) into the historical specificity of Locke's ideas. The book contains the equivalent of Skinner's 'crude' claim that 'we must learn to do our own thinking for ourselves' in what Dunn was later to call the 'peculiarly ill-considered' sentence. 'I simply cannot conceive of constructing an analysis of any issue in contemporary political theory around the affirmation or negation of anything which Locke says about political matters.' At the same time, Skinner produced some prolegomena to a similar entirely historical investigation of a classic author, in a series of articles locating Hobbes in the context of the pamphlet warfare of the English revolution, and in particular the arguments over the 'Engagement' to obey the new republic of 1649 (Skinner, 1964; 1965; 1966; 1974).

These manifestos of the late 1960s could draw on some predecessors as examples of the kind of historical approach they had in mind. For Skinner, the foremost example was Collingwood, who represented in English dress the German tradition stemming at least from Dilthey, that had always seen utterances (including complex philosophical texts) as part of the history of action; but for both Skinner and Dunn there were more recent and more local exemplars. One was Peter Laslett, who in 1960 had produced a famous edition of Locke's *Two Treatises of Government.* In the introduction he argued that no distinction should be made between Lock's intentions in the First Treatise and those in the Second: it had always been recognized that the First was a polemical tract with a specific historical target, namely Sir Robert Filmer, and Laslett argued (with a wealth of close scholarship) that Filmer was equally the target of the Second Treatise. Locke's role in some putative history of liberal values, and in particular his supposed refutation of Hobbes, was thereby called into question. (It might incidentally be remarked that Laslett's views about the relationship of the First and Second Treatises have recently been questioned by Professor Ashcraft (1987), while the Second Treatise has been claimed by both Professor Tully and myself to have a much wider objective than the refutation of Filmer (Tully, 1980; my own views are contained in my 1991 Carlyle Lectures) – the first and in many ways the best example of the new method appears much shakier than it once did.)

The other more recent example was John Pocock. He had achieved fame through the publication in 1957 of a remarkable work, *The Ancient Constitution and the Feudal Law*, in which he studied the constitutional conflicts of seventeenth-century England through a close examination of the rather technical historical scholarship produced by seventeenth-century antiquaries. The book was highly unusual in the care and intelligence which Pocock devoted to a whole group of writers who on no stretch of the imagination could be fitted into the standard array of classic authors, but whose activities were shown to be historically more significant in many ways than that of the great theorists.

In the following years, Pocock developed a general theory to vindicate this approach, expressed most clearly in an essay of 1962. In this essay, he urged historians of ideas

to take seriously as the material to be understood and explained the whole set of writing or other products on politics available from a particular society – what he called the 'stereotypes' and 'languages', and what he has subsequently termed 'paradigms', Even the major political philosophers, he argued, could only be read against a rather minutely specified and historically particular background of linguistic practices. It was true, he acknowledged, that:

> as the language employed in political discussion comes to be of increasing theoretical generality, so the persuasive success of the thinker's arguments comes to rest less on his success in invoking traditional symbols than on the rational coherence of the statements he is taken to be making in some field of political discourse where statements of wide theoretical generality are taken to be possible. Here, sooner or later, our historian must abandon his role of a student of thought as the language of a society, and become a student of thought as philosophy – i.e. in its capacity for making intelligible general statements . . . [But because the historian had approached his philosopher *via* a study of the wider language, he] can now consider the level of abstraction on which the thinker's language tends to make him operate, and the level of abstraction on which the thinker's preoccupations tend to make him use his language. He can now give some precision of meaning to the vague phrase – every thinker operates within a tradition; he can study the demands which thinker and tradition make upon each other. (Pocock, 1962, pp. 200–1)

Skinner's work on Hobbes and the Engagers a few years later was seen by both men as a fine example of this kind of approach.

It is important to stress that to see philosophical reflection as in its essence a kind of historical activity, no different from other actions by historical agents (such as cutting off King Charles' head or running the Counter-Reformation Catholic Church) is not *eo ipso* to deny its significance from the point of view of modern theory. But it is to concede its significance in the same way as the rest of our history is significant. This is an issue which much of the methodological argument of the last twenty years has been somewhat evasive about, largely because it raises a number of very fundamental questions about the extent to which the historically given character of modern ideas is relevant to a proper understanding of them. Marxists, of course, have never had any trouble about this: they have straightforwardly believed that many of the values which govern modern society are ideological, and formed by the exigencies of the economic history of the human race. An understanding of that economic history (broadly defined) would then be vital to a proper apprehension of those values – such as why certain puzzling things (e.g. the labour theory of value and the legitimacy of capitalist profit) go together.

But many non-Marxists have taken a similar view (for example, Weber), though with a much less single-minded approach to the past. They have believed that many different kinds of historical action, not just the construction of new modes of production, had some causal relation to the kinds of values which our current society seems to espouse and that understanding that history might dissolve some of the puzzles about the values. Part of that history will be economic, part will be political or constitutional (e.g. the impact on all subsequent Western societies of the actual institutional story of the Reformation or the French Revolution) and part might be intellectual to do with

the theoretical resources readily available to the agents at any particular time. The history of political thought treated as part of historical enquiry in general rather than as some privileged and special means of understanding our values, would fall readily into this last category.

The attack on the notion that we will get our political values from a simple scrutiny of the great texts could thus go in two quite different directions. One was towards support for the analytical enterprise of modern political philosophy, with the history of political thought treated as a quite separate study (the position apparently adumbrated in Dunn and Skinner's early pronouncements). The other was towards support for an historical criticism of modern theories, in which their inconsistencies and puzzles were to be resolved not by abstract thinking but by laying bare their historical origins, including (though not exclusively) their origins in the history of theory. In their actual practice as historians both Dunn and Skinner and their pupils and followers have often been inclined towards the latter approach; though it would (I think) be fair to say that none of them have given a wholly convincing or comprehensive account of *how* historical enquiry solves conceptual puzzles, preferring instead to offer examples of the process. But as the enterprise of modern political philosophy has faltered, and as the possibility of 'doing our thinking ourselves' has become more remote, this second approach has seemed increasingly attractive.

A particularly good example of it has been the resurrection of something like a classical theory of republicanism. For the last couple of decades, Skinner has been working on the political thought of Machiavelli (see e.g. Skinner, 1978; 1981; 1983; 1988; 1990a and b). Initially (it might be fair to say) his interest in Machiavelli was as an example of the misunderstandings to which historians of political thought are liable if they ignore the actual context of a writer's work – in Machiavelli's case, the context of Renaissance Ciceronian political theory. But in some of his more recent essays, Skinner has felt able to use Machiavelli in a rather different way as an example of a 'republican' theorist of liberty whose writings might (with appropriate qualifications) help us to recover a 'republican vision of politics'. His argument in these essays starts from the famous distinction made by Isaiah Berlin between 'positive' and 'negative' liberty. As is well known, by 'positive' liberty Berlin meant an idea of human freedom in which – paradoxically – we must be constrained in various ways in order to be led along the paths which represent our real interests (a view associated allegedly with Rousseau or Marx); while 'negative' liberty is the conventional liberal notion of free individuals pursuing the ends which they assign to themselves in a framework which maximizes their general ability to do so. Skinner has argued forcefully that this dichotomy is implausible at least if it is taken to be the basis upon which a sharp distinction must be drawn between (in modern terms) 'communitarian' and 'rights' theories:

> Contemporary liberalism, especially in its so-called libertarian form, is in danger of sweeping the public arena bare of any concepts save those of self-interest and individual rights. Moralists who have protested against this impoverishment – such as Hannah Arendt, and more recently Charles Taylor, Alasdair MacIntyre and others – have generally assumed in turn that the only alternative is to adopt an 'exercise' concept of liberty [a term which Taylor uses to make the point that we are only in full possession of our liberty if we actually exercise our principal human capacities] or else to seek by some unexplained means

> to slip back into the womb of the polis. I have tried to show that the dichotomy here – either a theory of rights or an 'exercise' theory of liberty – is a false one. (Skinner, 1990b, p. 308)

Instead, Skinner has insisted that the tradition of classical republicanism embodied the claim that *in order* to protect our individual liberty, understood in a 'negative' sense, we should live a relatively strenuous life of republican involvement, in which our duties as citizens might be quite extensive, and might include many of the actual practices which the supposed 'positive' theorists took to be necessary – including for example, the kind of republican activism which Rousseau pleaded for. (Skinner has not made Rousseau a central figure in his story, and seems in the most recent statement to treat him as essentially a theorist of a 'positive' kind, though it may well in fact be possible to align him more closely to Skinner's negative republicans.) A republican life of this kind is necessary, these theorists are held to have argued, since without it political institutions will become corrupt, and the citizens will lose their independence either through internal domination by a party or single ruler, or through external domination by an imperial power. So although a conceptual distinction between positive and negative liberty might be justified, the negative concept can in practice underpin a much less exclusively right-based political regime. Skinner has drawn the contemporary moral clearly enough:

> It will be objected that this attempt to enlist the traditions of Machiavellian republicanism as a third force amounts to nothing more than nostalgic anti-modernism. We have no realistic prospect of taking active control of the political processes in any modern democracy committed to the technical complexities and obsessional secrecies of present-day government. But the objection is too crudely formulated. There are many areas of public life, short of directly controlling the actual executive process, where increased public participation might well serve to improve the accountability of our *soi disant* representatives. Even if the objection is valid, however, it misses the point. The reason for wishing to bring the republican vision of politics back into view is not that it tells us how to construct a genuine democracy, one in which government is for the people as a result of being by the people. That is for us to work out. It is simply because it conveys a warning which, while it may be unduly pessimistic, we can hardly afford to ignore: that unless we place our duties before our rights, we must expect to find our rights themselves undermined. (1990, pp. 308–9)

I do not want to consider here how far this is a convincing historical reconstruction of Machiavelli's views. There have been some criticisms of it, and it may be the case that Skinner has overestimated the liberal basis for any pre-Rousseauian theory of republicanism. Both ancient and Renaissance republicans, for example, were pretty sure that sharp distinctions of social capacity, including (usually) slavery, were necessary to protect the liberty of the free citizens, and they were after all repudiated by the liberal rights theorists for precisely that reason. But the point I want to stress is that this use of a classic text is not a repudiation of the methodology originally called for at the end of the 1960s. Instead, it offers an example of using an historical enquiry to resolve or at least illuminate a modern theoretical puzzle – the puzzle in this case being the stark and unconvincing antagonism between communitarians and liberals.

Another example from recent writing would be Dunn's explicit repudiation of his youthful and extravagant claim that there is nothing alive in Locke's political thought. In an essay directly addressing the question 'What is Living and What is Dead in John Locke?', Dunn continued his long-standing attack on the popular notion that modern rights theories can reasonably be located in Locke's actual political writings, pointing (as he had always done) to the explicitly theistic foundation upon which Locke based his account of natural rights. But Dunn was now prepared to concede that 'the main set of categories which he elaborated to interpret the *role* of men and women within God's history can in large measure stand free of that setting and serve still to interpret their political fate when left severely on their own' (Dunn, 1990a, p. 22). These categories, he argued, were three in number: the conception of an agent's responsibility for his own actions, the conception of a human society as 'the unintended consequence of a vast array of past human contrivances' (ibid., p. 23), and the conception of *trust* as the foundation of any worthwhile and persisting social relationship. This last feature was the most important and distinctive feature of Locke's political vision, and Dunn has written persuasively elsewhere about its continued salience in modern politics (e.g. Dunn, 1990b). But he observed about Locke that what was distinctive was the measured way in which all three of these categories were employed together:

> Even this conjunction, of course, has nothing magical about it. It ends no arguments and grounds no conclusive claims to authority. But that is its virtue, not its weakness: the index of its sober realism . . . Locke's view of the political project still has a huge distance to go. But it is a view which captures – and captures most evocatively – what politics is still like: captures it without superstition but also without despair.
>
> Locke saw politics this way; and I do not know of any other modern thinker who quite contrived to do so. And because he saw it this way and because this is the way it still is and is always likely to remain, we *do*, I think, have good reason to nerve ourselves for the full unfamiliarity of his vision – its unblinking historical distance – and to use it in all its integrity and imaginative force to help us to think again.
>
> And what could be more alive than that? (Dunn, 1990a, p. 25)

Yet another example of historians using their enquiries into past political theories to illuminate present arguments would be the increasing array of investigations into linguistic changes of various sorts. In so far as modern philosophers have at various times retreated to appeals to what a certain key term 'means', as part of their exposition of a particular theory, they have laid themselves open to the simple observation that terms do not necessarily have meanings that are stable over a relevant period or within a relevant group. My own book on *Natural Rights Theories* (Tuck, 1979) offered some thoughts about the complicated history of rights terminology, though it also tried to extract from the principal early-modern rights theorists a liberal political theory with many illuminatingly paradoxical elements (e.g. the constant association of natural rights with voluntary slavery), in an attempt to address directly the kinds of liberal theories which modern philosophers have put forward. In a much more systematic way, the essays in a volume such as *Political Innovation and Conceptual Change* (Ball, Farr and Hanson, 1989) (let alone the German enterprise edited and inspired by Professors

Brunner, Conze and Koselleck, the *Geschictliche Grundbegriffe*) offer a much better example of how a kind of etymological analysis can influence modern theory.

But, as I said earlier, these are all *examples* of an historical investigation put to the service of philosophical reflection. We still lack a fully developed and coherent account of *why* historical enquiry should matter. In part, it might be said, the very absence of such a thing is testimony to its redundancy: there is an obviousness about the need for us to think at least partly in historical terms which is rooted in very deep facts about our psychology. It is often said, albeit somewhat glibly, that a society which did not have an intense interest in its own history would be rather like an individual without a memory; the analogy is trite, and it obviously needs unpacking with care, since the directly functional advantages of a memory for an individual are not straightforwardly there for a society. On the other hand, it *is* true that the political and social institutions which we inhabit have never, even in the most revolutionary society, been invented completely *de novo* (and this would be true of the institution of 'revolution' itself, one of the more self-consciously historical practices of modern society). In so far as philosophers are going to reflect on the value and coherence of these institutions, including such fundamental things as private property, the state and the family, they are going to have to take into account the fact that the institutions as we have them were the product of historical development, and that their character was often given to them as a result of a particular history of *ideas.* That history may now be implicit in their operation, but recovering it can suddenly illuminate the point of an otherwise inscrutable set of habits and assumptions.

The question which this prompts is, then, what difference did the methodological arguments of the 1960s in fact make? Has the actual practice of the historians concerned, driven (as we have seen) by perfectly consistent motives, turned out to be radically different from that of their predecessors? To answer this question, we need to recall what I argued in the first half of this paper, that the 'old' history of political thought was primarily concerned to survey the classics of the genre in a search for the values expressed in their philosophies, which were taken to be applicable with relatively little difficulty to any society. On this account, Plato, Locke and Hegel all had (for example) competing theories of the state, and it was up to the reader to choose the most plausible (in practice, he was usually nudged towards Locke's). The fundamental idea of the 'new' history is that what matters is the combination of social and political history – the history of our actual institutions or languages – and the history of ideas. The state was not a given entity with an independent existence, about which philosophers could think: it is something with a history formed in part by practical exigencies, in part by the low-grade theoretical reflection of a wide variety of agents, and in part by the clear and distinct ideas of great philosophers.

It is this which has led the 'new' historians to incorporate into their writings accounts of a wide variety of lesser figures alongside the traditional canon (often, it should be said, to the point of self-parody), and which has led Pocock into being in many ways the most consistent practitioner of the new history, constantly subverting the orthodox subject-matter of his discipline. Clearly, much that was written about the classics of political theory in the past will still be relevant to our historical investigations today; equally clearly, the high-level philosophical reflections of the classic writers will

sometimes be more historically important than other elements in the history of our institutions, since they are the elements to which continued attention has been paid by our society. So the superficial difference between 'old' and 'new' history will often not be very great. But the wider contexts in which each operates are very different; and one of the things which the historian can illuminate is precisely the change in the contexts, and how the theoretical world which political philosophers inhabit today is fundamentally different from that of the earlier twentieth century.

References

Arrow, K. J.: *Social Choice and Individual Values* (New York: Wiley, 1951; 2nd edn 1963).

Ashcraft, A.: *Locke's Two Treatises of Government* (London: Allen & Unwin, 1987).

Ball, T., Farr, J. and Hanson, R. L., eds: *Political Innovation and Conceptual Change* (New York: Cambridge University Press, 1989).

Bergson, A.: 'A reformulation of certain aspects of welfare economics', *Quarterly Journal of Economics*, 52 (1938), 310–34.

—: 'Socialist economics', in *A Survey of Contemporary Economics*, ed. H. S. Ellis (Philadelphia, Pa.: Blakiston Co., 1949), pp. 412–48.

Brunner, O., Conze, W. and Koselleck, R.: *Geschictliche Grundbegriffe: Historisches Lexicon zur politisch-sozialen Sprache in Deutschland* (Stuttgart: Ernst Klett Verlag, 1972)

Catlin, G.: *A History of the Political Philosophers* (London: Allen & Unwin, 1950).

Debreu, G.: *Theory of Value* (New York: Wiley, 1959).

Dunn, J.: *The Political Thought of John Locke* (Cambridge: Cambridge University Press, 1969).

—: 'The identity of the history of ideas' (1968), in *Political Obligation in its Historical Context* (Cambridge: Cambridge University Press, 1980), pp. 13–28.

—: 'What is living and what is dead in the political theory of John Locke?', *Interpreting Political Responsibility* (Cambridge: Cambridge University Press, 1990), pp. 9–25.

—: 'Trust and political agency', *Interpreting Political Responsibility* (Cambridge: Cambridge University Press, 1990), pp. 26–44.

Easton, D.: 'The decline of modern political theory', *Journal of Politics*, 13 (1951), 36–58.

Grote, J.: *An Examination of the Utilitarian Philosophy* (London: Drichton Bell, 1870).

Hayward, F.: *The Ethical Philosophy of Sidgwick* (London, 1901).

Jevons, W. S.: *The Theory of Political Economy* (1871), 3rd edn (London: Macmillan, 1988)

Kavka, G. S.: *Hobbesian Moral and Political Theory* (Princeton, NJ: Princeton University Press, 1986).

Lange, O.: 'The foundations of welfare economics', *Econometrica*, 10 (1942), 215–28.

Laslett, P., ed.: *Philosophy, Politics and Society* (Oxford: Blackwell, 1956).

—: *John Locke, Two Treatises of Government* (1960); (Cambridge: Cambridge University Press, 1988).

Mises, L.: 'Die Wirtschaftsrechnung im sozialistischen Gemeinwesen', *Archiv für Sozialwissenschaften*, 47 (1920), 86–121.

Nozick, R.: *Anarchy, State and Utopia* (Oxford: Blackwell, 1974).

Olson, M.: *The Logic of Collective Action* (Cambridge, Mass.: Harvard University Press, 1965).

Pareto, V.: *Manual of Political Economy* (1909); trans. A. S. Schwier (London: Macmillan 1972).

Pocock, J. G. A.: *The Ancient Constitution and the Feudal Law* (Cambridge: Cambridge University Press, 1957).

—: 'The history of political thought: a methodological enquiry', *Philosophy, Politics and Society*, Series II, ed. P. Laslett and W. G. Runciman (Oxford: Blackwell, 1962), pp. 183–202.
Rawls, J.: *A Theory of Justice* (Cambridge, Mass.: Harvard University Press, 1971).
Sabine, G. H.: *A History of Political Theory* (1937); 3rd edn (London: Harrap, 1963).
Samuelson, P. A.: 'The pure theory of public expenditure', *The Review of Economics and Statistics*, 36 (1954), 387–9.
—: 'Aspects of public expenditure theories', *The Review of Economics and Statistics*, 40 (1958), 332–8.
—: *Economics*, 10th edn (Tokyo: McGraw-Hill, 1976).
Sidgwick, H.: *Methods of Ethics* (London: Macmillan, 1874).
Skinner, Q. R. D.: 'Hobbes's *Leviathan', Historical Journal*, 7 (1964), 321–33.
—: 'History and ideology in the English revolution', *Historical Journal*, 8 (1965), 151–78.
—: 'The ideological context of Hobbes's political thought', *Historical Journal*, 9 (1966), 286–317.
—: 'Conquest and consent: Thomas Hobbes and the Engagement controversy', *The Interregnum*, ed. G. E. Aylmer (London: Macmillan, 1974), pp. 79–98.
—: 'Meaning and understanding in the history of ideas'. *History and Theory*, 8 (1969), 199–215: *Meaning and Context: Quentin Skinner and his Critics*, ed. J. Tully (Cambridge: Polity Press, 1988), pp. 29–67.
—: 'Machiavelli's *Discorsi* and the pre-humanist origins of republican ideas', *Machiavelli and Republicanism*, ed. G. Bock, Q. R. D. Skinner and M. Viroli (Cambridge: Cambridge University Press, 1990), pp. 121–42.
—: 'The republican ideal of political liberty', *Machiavelli and Republicanism*, ed. G. Bock, Q. R. D. Skinner and M. Viroli (Cambridge: Cambridge University Press, 1990), pp. 293–309.
Tuck, R. F.: *Natural Rights Theories* (Cambridge: Cambridge University Press, 1979).
Tully, J. H.: *A Discourse on Property* (Cambridge: Cambridge University Press, 1980).
Walras, L.: *Elements of Pure Economics* (1874), trans. W. Jaffe (London: Allen & Unwin, 1954).
Winch, P.: *The Idea of a Social Science* (London: Routledge & Kegan Paul, 1958).

Further reading

Ball, T., Farr, J. and Hanson, R. L., eds: *Political Innovation and Conceptual Change* (Cambridge: Cambridge University Press, 1987).
Brunner, O., Conze, W. and Koselleck, R.: *Geschictliche Grundbegriffe: Historisches Lexicon zur politisch–sozialen Sprache in Deutschland* (Stuttgart: Ernst Klett Verlag, 1972).
Condren, C.: *The Status and Appraisal of Classic Texts* (Princeton, NJ: Princeton University Press, 1985).
Dunn, J.: *Political Obligation in its Historical Context* (Cambridge: Cambridge University Press, 1980).
—: *Interpreting Political Responsibility* (Cambridge: Cambridge University Press, 1990).
Gunnell, J.: *Political Theory: Tradition and Interpretation* (Cambridge, Mass.: Harvard University Press, 1979).
Pocock, J. G. A.: 'The history of political thought: a methodological enquiry', *Philosophy, Politics and Society*, Series II, ed. P. Laslett and W. G. Runciman (Oxford: Blackwell, 1962), pp. 183–202.

Skinner, Q. R. D.: 'The republican ideal of political liberty', *Machiavelli and Republicanism*, ed. G. Bock, Q. R. D. Skinner and M. Viroli (Cambridge: Cambridge University Press, 1990), pp. 293–309.

Tuck, R. F.: 'History of political thought', *New Perspectives on Historical Writing*, ed. P. Burke (Cambridge: Cambridge University Press, 1991), pp. 193–205.

Tully, J. H. ed.: *Meaning and Context: Quentin Skinner and his Critics*, ed. J. Tully (Cambridge: Polity Press, 1988).

Chapter 4

Sociology

KIERAN HEALY

Productive exchange between disciplines faces a paradox. Modern fields of enquiry are large, differentiated, and always growing. This means their boundaries are extensive, and there are many areas of potential contact between them. We are spoiled for shared topics and overlapping questions. Yet differentiation also entails a high degree of specialization at any particular point, and so traffic across disciplinary borders is less common than it ought to be. The trouble with interdisciplinary work is that you need disciplines in order to do it, and a discipline is a kind of exclusive conversation. Over time, participants come to share reference points and assumptions. The conversation gets more involved. Instead of looking outside, disciplines will reproduce for themselves (in miniature and unsatisfactorily) tools and concepts that are better developed in cognate fields (Abbott, 2000). Economists produce a working psychology, sociologists make a sketch of historical development, political philosophers know some stylized facts about social institutions. This process is guaranteed to produce straw men and errors of fact, but it is also inevitable because the ability to assume away some topics as settled or irrelevant is a precondition for any successful discipline.

These general issues are compounded for sociology. It is the most heterogeneous social science, which is perhaps another way of saying that it has been less successful at institutionalizing itself as a discipline than its close relatives. Unlike economics, it does not have a core kit of analytical tools and models codified in textbooks and widely accepted as legitimate both inside and outside the field. Economics is unique amongst the social sciences in this respect. After the Second World War, it acquired the gatekeeping features of professions like medicine or engineering, and also developed the imperial ambitions of fields like physics, all the while becoming incorporated into policy making in an unprecedented way (Fourcade, 2006). Unlike political science, on the other hand, sociology does not have a well-defined empirical core to unify it, either. Theoretical and methodological disputes are common in political science, of course, but a shared focus on the mechanisms and institutions of government has helped integrate the field. In sociology, by comparison, social life as such is too general to serve as a basis for unification.

This has not stymied efforts to rally the troops under a single banner. Auguste Comte, who coined the word, thought that sociology was the queen of the social sciences, the last to develop because the most general and all-encompassing. But these

claims have never prevailed in practice. Methodologically, the practice of sociology has always been considerably more heterogenous (and rougher around the edges) than the claims of general theorists would imply (Stinchcombe, 1968). In a similar fashion, sociological theory is better characterized as having its roots in a few intellectual traditions which, while they have often overlapped and interbred, have never succeeded either in subsuming their competitors or expelling them from the disciplinary conversation (Collins, 1994). The most successful effort (in professional rather than intellectual terms) was the structural-functionalist programme of Talcott Parsons, which dominated mid-twentieth century sociology in the United States (Parsons and Shils 1951; Parsons 1952). Parsons hoped his theoretical approach would both consolidate the field and establish it as the most general social science. The 'orthodox consensus' (Giddens, 1979) he helped achieve was brittle and short-lived, however, and even in its heyday was subject to strong criticism.

Structural-functionalism is worth mentioning here not for its continuing interest, but because its picture of individuals motivated by a coherent framework of norms and values is what many outsiders have in mind when they think of the sociological approach. On this view, individuals, small groups, organizations and whole societies are nested systems, and each layer can be explained by pointing to the functions it performs to help maintain the overall system. Individual actions are influenced by the normative expectations attached to roles and by the values people acquire through socialization. Role expectations and core values are themselves the product of society's functional needs. They help keep the system equilibrated: roles have explicit sanctions punishing non-compliance and more general values are internalized into individual personalities. Abiding by norms is gratifying to people. Temptations to act from sheer egoism will be counteracted by the pangs of conscience and any actual anti-social actions are punished as deviant behaviour. It is this incarnation of *Homo sociologicus*, an agent governed by values acquired through socialization and acting in accordance with his position in the role structure, who goes head to head with *Homo economicus* (Hollis, 1977; 2002). In political philosophy, the classic exploration of this contrast is Brian Barry's *Sociologists, Economists and Democracy* (Barry, 1978), which both defined structural-functionalism as the 'sociological approach' and attacked its explanation of political participation and democratic stability.

The standard critique of the Parsonian approach has long been that it describes an anodyne world where people conform to normative expectations, and where both personal values and individual actions teleologically serve society's functional needs. This is a little unfair – but only a little. Parsons's theory is more flexible and nuanced than might appear, but its flexibility is descriptive, not explanatory. It is possible to talk about change and conflict in Parsonian terms, but little is gained from using his vocabulary. Parsons worked out a huge conceptual scheme, a giant filing system, rather than a model that can be applied in practice to explain things. It is worth bearing in mind, though, that the problem he set out to tackle did not go away just because his solution was inadequate. Although he deployed the terminology of cybernetic systems, functions and feedback, Parsons saw himself as developing a *voluntaristic* theory of social action (Parsons, 1968a; 1968b). He wanted to describe and explain choice within social constraints: how individual actors achieve their goals in social settings where their decisions are influenced by norms and values and also constrained by the wider

environment. He was unwilling to see these settings either as structurally determined or as wholly in the hands of rational, self-interested individuals. As Barry Barnes (1995, p. 53) remarks, 'a solution to the problem represented by Parsons' voluntarism would be of as much interest today as it was in the lifetime of Parsons himself'.

By the 1970s, the Parsonian project had been rejected within sociology, but no single alternative arose to take its place. Instead, two related trends were discernible. *Intellectually*, sociological theory in this grand style fragmented into several competing approaches (see, for instance, such surveys as Giddens and Turner, 1987). And, although important theoretical work appeared in the 1980s and 1990s, *professionally* theory began to decline as a specialization in its own right. By the turn of the century, sociological theory remained a standard part of a sociologist's education. But, at least in elite departments in the United States, it was in general not taught by researchers who identified themselves as theorists (Lamont, 2004). These changes, however, do not mean the field lacked well-defined research programmes and theory groups. The point is that the retreat of grand theorizing in the Parsonian mode – where the aim was to integrate the entire field within a single general theory of social action – has meant that the most productive theoretical developments are both better integrated with empirical research and more focused in their aims.

The failure of the Parsonian synthesis within the discipline, coupled with the rise of rational choice theory across the social sciences in general, prompted two reassessments. Critics of structural-functionalism had charged that its macro-sociology was unable to deal with conflict, and that its micro-sociology was populated by 'cultural dopes' (Garfinkel, 1967, pp. 66–8) blindly following norms. The former criticism led to new work on inequality and social conflict. The latter criticism, combined with the challenge from rational choice theory, prompted efforts to provide better micro-foundations for cultural and institutional explanations. One response argued that institutions and culture were carried by cognitive scripts or schemas, habit, practical action and social classification. Berger and Luckmann (1967, p. 67) emphasized how social life acquires its facticity through the 'reciprocal typification of habitualized actions'. This is not a normative but instead a cognitive process, where the end result is commonsense knowledge that facilitates action. Separately, the late Pierre Bourdieu developed a theory built around the concept of *habitus*, the embodied set of rules for going on that provides people with templates for action in both familiar and new situations, and which reflects and reproduces the wider social structure in practice (Bourdieu, 1990; 1998). In a third effort to escape the Parsonian framework, Harrison White and his students reformulated role theory in network terms (White et al., 1976; Boorman and White, 1976), and White later produced a general statement of this approach (White,1992). Bourdieu and White are important because their ideas are more closely coupled with formal methods and empirical studies than most alternatives in the field of sociological theory. The same can be said for rational choice theory, but while sociologists have made significant contributions here (Hechter, 1987; Coleman, 1990), the discipline as a whole remains much less sympathetic to it than political science or economics.

There is still a clear contrast to be drawn between *Homo sociologicus* and *Homo economicus*, then, but the comparison has changed. Sociologists remain much more sceptical than economists of explanations grounded in strong assumptions about rational

decision makers and their fully informed choices. They are more likely to dispute the idea that rewards within market outcomes reflect some combination of individual choice, native aptitude and personal investment in skills. They suspect explanations that see institutional arrangements or distributional outcomes as efficient solutions to collective action problems, particularly when those outcomes are thought to reveal the preferences of those affected by them. Sociologists emphasize that individual preferences are conditioned upon one's position in the social structure; they see people as embedded in social networks that affect individual choices and the capacity to make them; and they think of social institutions less as conventions that help things run more smoothly and more as well-entrenched practices that provide the underpinnings of people's identities and preferences.

These tendencies affect the relationship between sociology and political philosophy. They suggest three main channels for the exchange of ideas, together with some hints about the content of those ideas. The first channel is via classical social theory. Without a unifying paradigm, sociology's intellectual identity is provided in part by the continued attention paid to its foundational thinkers, most notably Karl Marx, Max Weber, Émile Durkheim and Georg Simmel. Marx and Weber are major political thinkers in their own right, and the relationship between their political philosophies and political sociologies remains of strong interest. The main influence of Durkheim and Simmel comes through the application of other ideas of theirs to the sphere of politics, rather than by their political writings as such.

A second channel of influence is via work being done within the main theory groups now active in sociology. I do not pretend to a comprehensive survey here. Instead, I will offer some examples chosen in part because they concern empirical questions of interest to political philosophers, and also because well-developed equivalents are less likely to be found in economics or political science. One of the more direct points of contact occurred with the rise of communitarian thinking in the 1980s, as some organizational sociologists systematically developed the political implications of their empirical work on the relationship between bureaucratic organization and democracy. More recently, empirical research on comparative welfare state regimes and income inequality has become well integrated with philosophical debates about social justice and egalitarianism. Elsewhere, the connection between the fields is still manifest but perhaps also more challenging. The study of social movements, for example, reveals complex relationships between organizational strategies and the identities of participants, and makes it harder to think that a group's political identity is something just waiting to be recognized.

The third channel is via contemporary general social theory. Despite the changes in its position within the discipline over the past thirty years, it remains an active enterprise. At present, no single paradigm is dominant but there are several contenders, each associated with the work of a particular individual. Since the 1970s, Jürgen Habermas has been the most influential thinker working at the intersection of sociological theory and political philosophy (Habermas, 1984; 1989b; 1996). Habermas's writings cover a terrific range of topics and are not restricted by disciplinary boundaries, but from the point of view of sociology he and his followers inherited the challenges to sociological theory described above, and responded to them in a distinctive way. Specifically, Habermas's work represents another attempt to transcend the legacy of Parsons, but

unlike some of the other responses (which moved theory closer to empirical research), Habermas proceeds much as Parsons himself did. By means of close reading of texts, he critically reworks and synthesizes the ideas of his most important predecessors in the sociological canon. This strategy – in another echo of Parsons – led Habermas away from the more empirical concerns visible in some of his earlier work (Habermas, 1989a, originally published in 1962) to work at a quite general level of abstraction. Sympathetic critics have made the case on Habermas's behalf that his critical theory contains an empirical research programme (Dryzek, 1995), and it is fair to say that a significant stream of anglophone sociology (especially in Britain) works with his ideas. If the parallel is to Parsons, the contrast is with Bourdieu, who developed a theoretical apparatus no less abstract than Habermas's, but did so by means of a series of more empirical studies rather than direct textual criticism of past theorists.

The remainder of this chapter discusses the main strands of classical theory and some important lines of contemporary empirical work. My discussion throughout is selective, in an effort to focus on the most distinctive ways that sociological thinking articulates with the concerns of political philosophy, while avoiding redundancy with other chapters in this *Companion*. The second half of this essay is particularly concerned with the relationship between the 'basic structure' of society, as conceived by political philosophers, and the idea of social structure as sociologists understand it.

The Legacy of Classical Theory

Sociology emerged as an independent discipline quite late in the nineteenth century, carrying opposing intuitions about the nature of society within itself. One line of thought was rooted in the idea that, as Roberto Unger puts it, 'society is made and imagined, that it is a human artifact rather than the expression of an underlying natural order' (Unger, 1997, p. 3). The possibility therefore exists that the social order might be transformed in radical ways, consciously reconfigured to better fit the demands of justice or the precepts of science. Marx is the pivotal thinker in this tradition. Opposing this idea was the image of society as a strange new entity in its own right. Society's influence on individuals was profound, yet poorly understood. It was unlikely to be remade at will, and it demanded a special science of its own. Émile Durkheim is the strongest proponent of this view. His work insists on the objective reality of social facts, the impossibility of understanding them in purely psychological or historical terms.

This antinomy can be seen as another, earlier version of the problem of voluntarism that later confronted Parsons. Enlightenment thinkers were faced with 'the paradoxical thesis that man was at once the creature and the creator of society' (Hawthorn, 1987, p. 27). In many cases, this tension between society and the individual was overcome by means of a theory of history: the transition to a new kind of social order was claimed to be at hand. Eighteenth- and nineteenth-century social thought is filled with schematic pictures of this kind where societies move along some developmental path that culminates in political or social emancipation (though not exclusively: Rousseau is a major exception). Marx's theory of history is the most influential version of this story, but he is in line with predecessors like Condorcet, Saint Simon and Comte in this respect. As Krishan Kumar suggests, while 'the eighteenth-century *philosophes*

could . . . equably contemplate a good number of stages through which mankind had passed, or would pass . . . for later nineteenth century sociologists . . . there could really only be one distinction, one movement, that between "then" and "now" ' (Kumar, 1991, p. 58). As they sought to make sense of the industrial revolution, the image of a decisive break with the past predominated: we were moving from 'community' to 'association', from 'militant' to 'industrial', or 'mechanical' to 'organic' society. Liberal analysts of modern society tended to favour a two-stage process where present-day tendencies would soon be brought to fruition. Radical critics like Marx saw a three-step movement, with industrial society as a transitional phase between the past and a much brighter future (Peel, 1971, pp. 198–200; Kumar, 1991, pp. 59–60). Of the classical thinkers whose work remains of substantive interest to sociologists, Marx is the only one for whom this emancipatory aspect of social theory is vital. For the others – Durkheim, Simmel and Weber – it is either muted, almost absent, or treated with much more ambivalence.[i]

Marx

Marx's theory of politics and its subsequent development by others is discussed in detail elsewhere in this *Companion*. Here we can say that Marx's political sociology complements his political philosophy by giving an analysis of the conditions under which classes may become political actors, and the obstacles that stand between workers and their liberation. In class-divided societies, politics is first and foremost the struggle for control of the state and its organizational power. Classes are defined in terms of the ownership of property and it is the state that enforces property rights. As such, the dominant, property-owning classes always have a strong interest in maintaining the state's stability and securing some measure of control over it. When surveying the sweep of history, as in the *Communist Manifesto*, Marx could say that the modern state was but the 'executive committee of the bourgeoisie', implementing its desired policies as needed. When analysing particular political struggles, as in *The Eighteenth Brumaire of Louis Bonaparte*, he allowed for more nuance. The question of how to specify this connection gave rise to substantial debate on the state's 'relative autonomy' from class interests both in day-to-day politics and 'in the last instance'. The best work in this tradition emphasizes how state institutions may be class biased in indirect ways. For instance, when the state is dependent on tax revenues from particular classes, its ability to act against the interests of those classes will be limited, even (or especially) if left-wing parties are in power. This kind of analysis focuses on the comparative variability in class/state relations rather than assuming the instrumental or functional subordination of the former to the latter (Offe and Ronge, 1975; Therborn, 1978).

Marx's theories of ideology and class consciousness also emphasize the material roots of political mobilization. The ruling classes are in a much better position to act in favour of their interests because they have better resources, closer ties with one another, and well-developed ideologies that justify their actions. There is no class consciousness like ruling-class consciousness. In agrarian societies, the vast majority of people – the peasantry – do not come into contact with one another and their class identity remains latent. They are 'like potatoes in a sack'. Marx hoped that the growth of the division of labour, the increasing concentration of economic activity in cities and the spread of the

market would create the conditions under which workers could become aware of their common class situation and mobilize for action. Marx's emphasis on the economic basis of politics is no surprise. But he also argues that economic organization is itself a key site of political struggle: 'Capital,' he says, 'is a social relation of production' (Marx, 2000, p. 281). Economic institutions and seemingly objective or neutral facts about economic life are both the result of political struggle between classes. The economist Abba Lerner once observed that any set of property rights in the market 'begins as a conflict about what somebody is doing or wants to do which affects others', and so 'an economic transaction is a solved political problem' (Lerner, 1972, p. 259). Lerner emphasized the benefits that accrue to consumers once these solutions are instituted. Marx argued, to the contrary, that capitalist property rights are exploitative arrangements masquerading as neutral frameworks for exchange. Economic institutions are the residue of political conflict. Reading Marx this way preserves the idea that classes are in conflict over the ownership of material resources, and allows relationships between class interests, economic institutions and political power to be analysed without supposing that outcomes are foreordained by Marx's theory of history. This strand of political sociology has proved more robust and fruitful for research than the economic 'laws of motion' Marx thought he had discovered for capitalism. It can be seen at work in studies of class politics on the factory floor (Burawoy, 1982), the comparative politics of the wage bargain (Swenson, 1989; Esping-Andersen, 1990) and the historical development of national polities (Moore, 1991).

Weber

Like Marx, Weber is an important political theorist in his own right, and much of his political sociology can be found in his commentaries on the political events of his time (Beetham, 1974). Unlike Marx, he does not give us a master key to history or a specific programme of action, yet in outlook and temperament he is in many ways the most political of the classical sociologists. Weber had no faith that history was working towards the emancipation of the masses. He also had little time for the idea that political revolutions would solve the problems of modern societies. His *pathos*, instead, is a self-consciously bitter realism about the substance and limits of politics. Even as he despairs at the prospect, Weber tries to reconcile a series of opposing principles: historical specificity and sociological generalization, liberalism and nationalism, political engagement and scholarly neutrality, the inexorable logic of social institutions and the importance of personal responsibility or individual will (Mommsen, 1989).

Weber's chief substantive concern was the rise of bureaucratic administration in modern society. His analysis of it was both acute and ambivalent. From a technical point of view, Weber argued, the modern bureaucracy was the most efficient means of administration ever devised. When properly constituted and staffed by qualified professionals, it was the organizational embodiment of calculative, means–end rationality. Bureaucracy was also the handmaiden of disenchantment, however – the progressive leaching of subjectively meaningful values from the world. Objective efficiency and subjective emptiness went hand in hand. Weber was convinced that this was not just the typical state of modern society but its inescapable fate. 'Once fully established, bureaucracy is one of those social structures which are the hardest to destroy . . . Where

administration has been completely bureaucratized, the resulting system of domination is practically indestructible' (Weber, 1978, p. 987).

This vision animates Weber's analysis of the spirit of modern capitalism. Weber argued that there was an elective affinity between the theological concept of a secular vocation, or calling, worked out by Protestant sects in the wake of the Reformation, and the methodical work ethic best suited to rationalized capitalism. Weber saw early Protestantism as providing the moral and cultural content of early capitalism, particularly the conviction that 'the valuation of the fulfillment of duty in worldly affairs [was] the highest form which the moral activity of the individual could assume' (Weber, 2001, p. 40). But once capitalism became a self-sustaining system, the theological origins of this ethic (rooted in the desire to signal one's salvation) fell away: 'The Puritan wanted to work in a calling; we are forced to do so.' We are left with the 'iron cage' of rationality, where 'the technical and economic conditions of machine production' determine people's lives, and may continue to do so 'until the last ton of fossilized coal is burnt' (ibid., p. 123). The future would be nothing but a 'mechanized petrification, embellished with a sort of convulsive self-importance', unless either 'entirely new prophets' were to arise or 'a great rebirth of old ideas and ideals' to occur (ibid., p. 124).

Weber saw a similar choice in the sphere of politics. 'Bureaucracy inevitably accompanies mass democracy', as the state expands its administrative reach and is staffed by professional office holders (Weber, 1978, p. 983). The same thing happens to political parties, which break with 'traditional rule by notables based on personal relationships' and become 'democratic mass parties . . . bureaucratically organized under the leadership of party officials, professional party and trade union secretaries, etc' (ibid., p. 984). As with capitalism, this is not just a matter of organizational form but also the development of a new kind of personality (Gorski, 2003). Weber dismisses the 'naive idea' that state domination can be done away with 'by destroying the public documents' and filing systems of official bureaucracies. This strategy 'overlooks that the settled orientation of *man* for observing the accustomed rules and regulations will survive independently of the documents', and an appeal to this 'conditioned orientation' allows 'the disturbed mechanism to "snap into gear" again' (Weber, 1978, p. 988). And just as Weber wondered about 'entirely new prophets' arising in economic life, in politics he thought the only escape from bureaucratic domination was through the emergence of charismatic leaders whose legitimacy rests on personal loyalty. Charismatic authority is everything bureaucracy is not: a 'quality of individual personality' whose bearer is 'considered extraordinary' and thought to be 'endowed with . . . exceptional powers or qualities' that compel personal loyalty and a sense of duty amongst followers (ibid., p. 241). Charismatic leaders embody new values and inspire their followers to act on them, upsetting the routine of administrative life and injecting new values into politics. Here again we find Weber's characteristic ambivalence. Charismatic leadership offers an escape from bureaucratic domination, but in the modern era even charismatic leaders must be professional, full-time politicians. Once more, the concept of a vocation is essential to Weber's understanding of this dilemma. Like the pursuit of profit under capitalism, politics, too, is a vocation. Its true practitioners are called to balance their ultimate values with the endless 'slow boring of hard boards' that politics requires (Gerth and Mills, 1958, p. 128). Both the professional demands of political life and the

intensity of a true vocation for politics necessitate a split between a passive citizenry and the politically active class. For this reason, it is a mistake to think that democratic government can be the expression of popular will. Instead, 'there is only the choice between leader democracy with a "machine" and leaderless democracy, namely, the rule of professional politicians without a calling, without the inner charismatic qualities that make a leader' (ibid., p. 113). The legitimacy of modern government is poised between legal-rational and charismatic forms of authority.

For sociologists, Weber's main influence is felt through the analytical typologies he developed together with his example of their application in historical and comparative analysis, especially his understanding of the institutional preconditions of modern capitalism. His work is fundamental to the sociology of the state, formal organizations and social stratification, discussed below, as well as to subfields like economic sociology and the sociology of religion. For political philosophers, his relevance is twofold. First, he saw his own work (and social science generally) as providing a detailed and above all *realistic* picture of the conditions under which political action must take place in modern societies, and the true prospects of various political programmes. Social science should clarify the decisions that politically committed people must make as they pursue their goals. His methodology tries to balance the demands of objective science with the need to choose one's values and assess the merits (and plausibility) of one's personal projects. Weber is in this sense a theorist of political judgement, concerned with how political actors ought to make choices (Breiner, 1996). Weber's second lesson, though, is that the choice of goals is not a matter for science. Politics remains rooted in ultimate values and is inescapably conflictual – despite the rise of bureaucratic administration, political life cannot be reduced to a technocratic exercise in planning.

Again and again, Weber provides detailed, relentless analysis of the rationalizing force of modernity, rejecting utopian alternatives as he goes (he does this even as his historical discussions admit of many nuances, exceptions and qualifications). He then contrasts this bleak image with an ideal of the kind of political actor who must confront this situation: a person committed to some core value and gripped by a sense of vocational duty, who sets himself in a clear-eyed fashion against the mediocrity and everyday grind of economic, political or intellectual life, skirting despair all the while. 'Only he who in the face of all this can say "In spite of it all!" has the calling for politics', Weber says at the close of 'Politics as a Vocation' (Gerth and Mills, 1958, p. 128). It is a curiously romantic image from the arch-realist of political sociology.

Durkheim and Simmel

Durkheim's and Simmel's explicit discussions of politics are less systematic and less interesting than those of Marx and Weber. Their most important contributions to political sociology are by way of their general social theories – most importantly, the quite different work of each on the relationship between the individual and the group. This is not to say that either was uninterested in politics. Durkheim, in particular, wrote about the political issues of his time (notably the Dreyfus affair) and had strong views on the relationship between the state and civil society, which he outlined in a series of lectures (Durkheim, 1992). His chief weakness as a political thinker, as Steven Lukes has remarked, was his conviction that the natural condition of society was one of

harmonious co-ordination, with the state as its 'brain' or central, co-ordinating organ. He thus tended 'to see politics as analogous to medicine . . . [and] to idealize societies he thought of as integrated, ignoring the tensions and conflicts within them, while seeing the realities of his own society only as pathological deviations from its future, normal, ideally integrated state' (Lukes, 1992, p. 30).

In his political writings, Durkheim develops a kind of liberalism that incorporates a strong defence of individualism, while arguing that the latter requires a stable, well-integrated society in order to prosper (Giddens, 1986; Durkheim, 1992). This formulation results from Durkheim's ideas about the division of labour and social solidarity. His intuition was that all societies rest on a moral order. In simple, undifferentiated societies this solidarity is *mechanical*, based on structural similarity and resulting in intense, concrete, shared religious beliefs and strict rules of conduct. Complex societies are different. They are 'constituted . . . by a system of different organs each one of which has a special role, and which themselves are formed by differentiated parts' (Durkheim, 1984, p. 132). Solidarity by means of similarity is impossible because of the heterogeneity of the social structure. Instead, the moral order is *organic*: the differentiation of individuals itself becomes the basis for solidarity. 'As all the other beliefs and practices assume less and less religious a character, the individual becomes the object of a sort of religion. We carry on the worship of the dignity of the human person, which, like all strong acts of worship, has already acquired its superstitions' (ibid., p. 122). In practice, Durkheim did not trust this process to work unaided. In the same passage he goes on to worry that:

> if [this] faith is common because it is shared among the community, it is individual in its object . . . it is not to society it binds us, but to ourselves . . . This is why theorists have been justly reproached with effecting the dissolution of society, because they have made this sentiment the exclusive basis of their moral doctrine. (Durkheim, 1984, p. 122)

Durkheim argued that the state should play an active role in co-ordinating the social division of labour (i.e., through economic planning), and that professional associations and occupational groups should act as a kind of mediator between individuals and the state, both in the economy and in politics. In other words, he advocated a kind of corporatism with the aim of devolving some of the co-ordinating power of the state onto civil society.

Durkheim sought to balance his conviction that moral individualism was an inevitable product of structural differentiation with his belief that society was an organic whole composed of complementary parts. Mark Cladis has argued that Durkheim's position amounts, in contemporary terms, to a 'communitarian defense of liberalism' (Cladis, 1992) that goes well beyond the straightforward conservatism once attributed to him. Nevertheless, it is hard to deny that Durkheim's chief importance for political thought lies elsewhere. His key insight, explored most fully in *The Elementary Forms of Religious Life* (Durkheim, 1997), is that individual commitment to the social order is a moral phenomenon grounded in ritual practices whose form and content are limited by the social structure. His thinking on this topic was framed by assumptions about the evolutionary development of societies that were quite conventional for their time (a straightforward uphill climb from small tribal groups to, more or less, the

French Third Republic). But he also insisted that complex societies are no less dependent on ritual activity and sacred symbols than their predecessors, and this gave his ideas a radical edge. For Durkheim, our political and social institutions do not ultimately have a rational basis but instead are at root religious in character – a 'moral community' with a 'unified system of beliefs and practices relative to sacred things' (ibid., p. 44).

Like Durkheim, Simmel emphasized that individual identity could not be understood without a theory of social structure, which he thought of as recurrent patterns of social relations and interactions. Durkheim, however, thought of this problem in terms of a strong dichotomy between the individual and society. He did concede that there were intermediary groups to which individuals belonged, but argued that of these the important ones (because they derived from the division of labour) were professional and occupational groups. Occupational associations, he thought, would 'become the basis of our political representation as well as our social structure in the future' (Durkheim, 1992, pp. 96–7). Simmel had a more sophisticated view. For him, society has real structure but it is not monolithic. The division of labour leads to a myriad of overlapping and potentially opposing groups and associations, and this 'web of group affiliations' is the source of individual identities (Simmel, 1964). Simmel saw that individual identities emerge out of the experience of belonging to many different social circles, and argued that the social identities of different groups can overlap in virtue of the individual members they share (Breiger, 1974). In politics, for example,

> it usually happens that the political parties also represent the different viewpoints on those questions which have nothing at all to do with politics. Thus, a certain tendency in literature, art, religion, etc, is associated with one party, an opposite tendency with another. The dividing line which separates the parties is, thereby, extended throughout the entire range of human interests. (Simmel, 1964, p. 156)

While each of the classical sociologists diagnosed the phenomenon of individual detachment or separation from meaningful social life (whether as alienation, *anomie* or disenchantment), Simmel framed the question in terms of relative attachment to overlapping social circles. In this respect, he is the classical theorist most sensitive to the varying salience of group membership and hence to what would now be called questions of identity.

From Classical to Contemporary Sociology

The modern concept of society emerged from its older meanings of 'company', 'association' or 'community' by way of contrast with the state. (The development of the idea of civil society during the Scottish Enlightenment was an important intermediate stage.) By the nineteenth century, 'society' had become the 'most general term for the body of institutions and relationships within which a relatively large group of people live; and . . . our most abstract term for the condition in which such institutions and relationships are formed' (Williams, 1983, p. 291). The classical sociologists fleshed out this idea with concepts like class position, division of labour, social role, status group,

life chances, *conscience collective*, and the more general concept of social structure itself. These ideas were put to work in theories that sought to show the deep effects of society on individuals. The emphasis varies: Marx for technological change, distributional conflict and class inequality; Weber for the increasing dominance of instrumental rationality in modern social relations and the periodically decisive importance of cultural values; Durkheim and Simmel for the social-structural origins of individual subjectivity and modes of thought.

How has this classical sociological tradition been expressed in political philosophy? Two important points of contact – each already well established in the literature – should be acknowledged. The first is Jürgen Habermas's critical theory; the second is the sociological contribution to communitarian thought. Habermas develops his view through critical readings of sociological thinkers, especially Weber and Durkheim, but also Parsons. Like Weber, he worries about bureaucratic rationality and political legitimacy. Like Durkheim, he asks how social integration is possible in highly differentiated societies. For Habermas, the problem of modernity is this: 'how can disenchanted, internally differentiated and pluralized lifeworlds be socially integrated if, at the same time, the risk of dissension is growing, particularly in the spheres of communicative action that have been cut loose from the ties of sacred authorities and released from the bonds of archaic institutions?' (Habermas, 1996, p. 26). To put it glibly, while Weber sees resistance to instrumental rationality and hope for social solidarity as lying in the individual wills and charismatic qualities of gifted individuals, Habermas wants civil and legal institutions that allow for communicative rationality for everyone in political life.

The classical sociological theorists influence Habermas's thought in two key ways. They orient him to the problem of social integration (and more specifically political legitimacy) in modern societies, and they alert him to the gap between the formal self-description of institutions and their actual operation in practice. As he puts it in *Between Facts and Norms*, this is the tension between 'the sociology of law versus the philosophy of justice' (Habermas, 1996, p. 42). Habermas wants to 'take the legal system seriously by internally reconstructing its normative content' but he also knows we can 'describe it externally as a component of social reality' (ibid., p. 43). Social theories of law are not sufficient to ground the institution normatively (in fact, their realism makes it harder to do so), but they cannot be ignored, either. Habermas thinks he can reconcile the two perspectives in a unified account. This is not the place to assess the success of his efforts, but we can say that the centrality of classical sociological ideas to his thinking about institutions gives Habermas's work quite a different cast from either liberal individualists in the United States or some of his more philosophical competitors in Europe.

The desire for a normative political theory that remains sociologically realistic is also at the root of sociology's contribution to communitarianism. Two of the most prominent sociological communitarians are Amitai Etzioni and Philip Selznick, and it is not an accident that both made their name in the study of formal organizations. Selznick's classic study *TVA and the Grass Roots* documented how the initial goals of the Tennessee Valley Authority were gradually displaced by those of community elites, a process of 'co-optation' that happened because of the pressure on the organization to maintain its legitimacy (Selznick, 1949). Faced with the choice between keeping its original

mission and keeping important local constituents happy, the organization chose the latter and incorporated these elites into its decision-making structure. Formal bureaucracies can thus come to take on the values of the communities they are embedded in. In a more optimistic fashion, Etzioni's *The Active Society* conceived of formal organizations as the vehicle for the expression and implementation of collective values (Etzioni, 1968; Rojas, 2006). Their organizational sociologies share a concern about the relationship between effective but cold-blooded bureaucracies and broader societal norms or community values, and this emphasis is retained in their later communitarian manifestos (Selznick, 1992; Etzioni, 1993).

In addition to these two lines of work, there is a third point of contact with the broadly individualist, liberal tradition in political philosophy. Here, sociological ideas have been somewhat slower to take hold, probably because of the native resistance of individualist ways of thinking to sociological conceptions of action. But these concerns are nevertheless increasingly evident. The starting point is the concept of social structure – the 'basic structure of society', in John Rawls's phrase. Rawls remarked that 'everyone recognizes that the institutional form of society affects its members and determines in large part the kind of persons they want to be as well as the kind of persons they are' (Rawls, 1993, p. 269). The sociological tradition lies behind this acknowledgement. Brian Barry suggests that the integration of social structure into liberal political philosophy is one of Rawls's main legacies:

> If Rawls had achieved nothing else, he would be important for having taken seriously the idea that the subject of justice is what he calls 'the basic structure of society' . . . Rawls's incorporation of this notion of a social structure into his theory represents the coming of age of liberal political philosophy. For the first time, a major figure in the broadly individualist tradition has taken account of the legacy of Marx and Weber. (Barry, 1995, p. 214)

For Rawls, the basic structure is 'the way in which the major social institutions distribute fundamental rights and duties and determine the division of advantages from social cooperation'. His intuition is that 'this structure contains various social positions' and people's life chances are in part determined by their birth into these positions (Rawls, 1973, p. 7). The analysis of 'how fundamental rights and duties are assigned', and the effects of 'the economic opportunities and social conditions in the various sectors of society' (ibid.) has long been a central focus of sociology. If classical theory gave us the idea of the basic structure, then at a minimum contemporary sociological research can be a kind of empirical underlabourer for political philosophy, fleshing out the details of this structure. What is the class and occupational structure of advanced capitalist societies? Is there a high rate of upward mobility between generations? What is the degree of inequality within and between societies? On what dimensions is inequality most severe, and what are its consequences for people's lives? Answers to these questions can inform philosophical debates, though of course they will not resolve them. Beyond this role, though, the continued development and extension of sociological theory means that more substantial and challenging engagement is also possible, as the concept of social structure is itself refined and developed.

Inequality and mobility

In political philosophy – at least, in the Rawlsian tradition – there is a tight connection between inequality and mobility. The latter helps justify the former, via the idea of equality of opportunity. Equality of opportunity at the individual level is, in effect, the absence of (unwarranted) barriers to mobility between positions in the social structure. Such barriers may be written into law, as when members of certain groups are prohibited from entering particular occupations or acquiring property, and so on. They may be sustained through conscious prejudice or discrimination, as when employers refuse on principle to hire certain kinds of people. Or, most interestingly, barriers and opportunities for mobility may be institutionalized in ways that are not enforced by law but are more than independent acts of explicit prejudice: by means of conventions for dealing with different categories of people, for example, or through successful efforts by groups to hoard opportunities, channel demand or close off access to resources (Weeden, 2002). It is a matter of debate in political philosophy whether the claims of distributive justice extend beyond the formal legal apparatus of the state – the 'public system of rules which defines offices and positions', in Rawls's (1973, p. 55) phrase – to include institutions in the broader, more sociological sense (Pogge, 2000; Cohen, 2001; Swift, 2003). But there is a broad presumption that only technical or functional aspects of the division of labour (such as the need for certain abilities or qualifications to do a job properly) can justify barriers to mobility.

Of these twin concerns, political philosophers are perhaps more familiar with sociological research on inequality than mobility, because the former encompasses the role of the state in ameliorating (or exacerbating) poverty and social exclusion. Goodin et al. (1999) is a good example of work at the intersection of social-scientific and philosophical concerns. Two recent lines of research on inequality are worth mentioning in this context, because they broaden the terms of debate about the state and inequality. The first investigates the relationship between egalitarian goals and economic performance. In *Egalitarian Capitalism*, Lane Kenworthy challenges standard ways of framing arguments about redistribution in capitalist countries. He finds little evidence for the claim that there is a strong trade-off between equality and economic growth, or between equality and high employment (Kenworthy, 2004). The second examines a different kind of state intervention in people's lives. The rate of growth in the number of people incarcerated in the United States since the 1970s has been astonishing, rising almost sevenfold to its present total of more than 2.1 million incarcerated in some fashion, with a further 4.7 million under some form of probation or parole. The bulk of this increase is not explained by growth in crime rates, nor is the fall in crime in the 1990s much attributable to the prison boom (Wacquant, 2006; Western, 2006). While there have always been inequalities in rates of incarceration, the recent surge in the prison population has been disproportionately concentrated amongst young, unskilled black men. The best available estimates suggest that almost 60 per cent of black high-school dropouts born between 1965 and 1969 had served time in prison by their early thirties. Moreover, amongst black men of this age in the late 1990s, a prison record was almost twice as common as military service or a bachelor's degree (Pettit and Western, 2004). At the macro level, these trends signal the emergence of new patterns in the life course for large segments of the population. The penal system is now 'among the key

institutional influences on American social inequality' (ibid., p. 165), with far-reaching effects on families, the labour market and the economy.

Research of this sort informs (and perhaps changes) our picture of how contemporary societies work. It is important to know whether welfare trade-offs that seem clear in principle matter very much in practice. In the same way, it is worth discovering which aspects of state intervention do the most to enhance or reduce inequality, and what their social and historical origins are. Of course, making *moral* sense of these facts is one of the reasons we need principles of equality or theories of justice in the first place. But, at the same time, political philosophers will want to employ such principles and theories to evaluate society as it is, rather than some stylized account of how they imagine it to be.

Compared to work on inequality, reference to sociological research on mobility is less common in political philosophy. Sociologists typically examine intergenerational movement (e.g., the difference between parents and their children) amongst positions in some set of social classes, or some status hierarchy of occupational positions. (In contrast, when economists study mobility, they most often focus on *intra*generational movement of individuals within the *income* distribution.) The political importance of the link between inequality and this kind of mobility was apparent in earlier research on mobility, notably in what is often called the 'liberal theory of industrialism'. Formulated under the wing of the Parsonian synthesis, its adherents argued that industrial development meant that *achievement* rather than *ascription* would govern the movement of individuals between occupations (Treiman, 1970). Continued growth and expansion of the division of labour implied that meritocratic criteria would be at work in a larger and larger portion of the occupational structure, as no new kinds of jobs would be ascriptively assigned. In terms of politics, high and increasing rates of mobility were seen as a useful barrier to class formation. The prospect of moving up the occupational ladder (or seeing your children move up) should inhibit class-based political mobilization. The chief contemporary competitor to this view was the Marxist thesis of gradual proletarianization, whether through a straightforward increase in the number of low-skill industrial occupations or (in a later version) a systematic deskilling of nominally skilled jobs.

As it turned out, however, the detailed intergenerational mobility studies produced by this debate found neither of these theories to be supported by the data. Lipset and Zetterberg (1956) proposed that mobility rates in all industrial democracies were about the same once a certain threshold of development had been reached, and would not continue rising with further growth. This idea was later reformulated by Featherman et al. (1975). They argued that while industrialized countries would differ in the *absolute* mobility rates observed between occupational categories – because they differed in their mix of agricultural, industrial and service jobs – the *relative* rates of mobility between occupations would be the same. In other words, net of structural differences, they predicted a common degree of relative mobility or 'social fluidity' in industrialized nations with a market economy and a nuclear family structure. Further, there was no reason to believe this fluidity would change much. Evidence from a series of cross-national studies offered much better support for this conjecture than either the liberal or Marxian alternatives (Ganzeboom et al., 1991; Erikson and Goldthorpe, 1993; Breen, 2004). Notably, the phenomenon of common social fluidity is observed whether

occupational categories are aggregated into social classes based on kinds of employment relations or are arrayed on 'vertical' scales of occupational prestige or pay scales (Hout and Hauser, 1992). On this last point, an unexpected finding was that hierarchies of occupational prestige (that is, collective judgements about the relative status of jobs) were essentially the same across countries and over time (Treiman, 1977; Ganzeboom and Treiman, 1996). This homogeneity is one of the things that allows for cross-national mobility comparisons to be made at all. But it also raises the question of why we see such consistency in the first place, a point I shall return to below.

Wage stagnation and rising inequality in the distribution of income and wealth, especially in the United States, has brought the relationship between social mobility and inequality back to the forefront of policy debates. Research emphasizes the contingent connection between the income distribution and opportunities for social mobility, and the care required to establish links between the two empirically (Hout, 2004). For instance, in the aggregate, Chile has a high rate of mobility and a high level of income inequality, features that seem to fit with the ideal of equality of opportunity. It turns out, however, that a large proportion of the national income (about 42 per cent) is concentrated in the top decile of earners, with low levels of inequality across the rest of the distribution. As a result, while occupational mobility within the bottom 90 per cent of the distribution is high, it is inconsequential with respect to income inequality. 'Income concentration at the top leads to strong mobility barriers between the top echelon and the rest of the class structure, and a more even income distribution between nonelite classes leads to significant fluidity among them' (Torche, 2005, p. 444). By contrast, while the United States also shows higher than average social fluidity, the relationship between mobility and inequality is the reverse of Chile's. The strongest barriers to mobility are at the bottom, where the poorest segments of the population are much poorer than their counterparts in other developed countries (Alesina and Glaeser, 2004, p. 47; Torche, 2005, p. 445). Societies with similar overall rates of mobility or levels of inequality may turn out to be very different once we examine them more closely. Similarly, the nature of the connection between these two processes may vary a great deal in spite of superficial similarities at the aggregate level.

Individuals and the social structure

Structural effects turned out to be fine-grained, and so scholars have moved to work at the interface of structural and individual levels of analysis. Resurgent political debate over the relative contribution of individual versus social traits to patterns of inequality gave a further push to research on mobility and opportunity (Jencks and Tach, 2006). The problem of disentangling social from individual effects is not new. It appears in Rawls's definition of the basic structure, for instance. Rawls makes a distinction between social and natural primary goods. The former, like 'rights and liberties, powers and opportunities, income and wealth', are 'at the disposition of society'. The latter, 'such as health and vigor, intelligence and imagination', are 'not so directly under its control', though he notes 'their possession is influenced by the basic structure' (Rawls, 1973, p. 62). Empirical research faces the problem of capturing effects across different levels of analysis, whether these are thought of as individual versus social, micro versus

macro, or genetic versus environmental. In political philosophy, we can see an equivalent issue in the effort to draw a distinction between inequalities that flow from one's choices and those that flow from one's circumstances (Dworkin, 1981; Kymlicka, 2001, pp. 70ff.). For its proponents, a sharp distinction of this kind defines the goods that can be subject to claims of distributive justice. Critics argue that such a contrast is untenable because 'unchosen personal traits and the social circumstances into which one is born are importantly . . . constitutive of one's identity' and, conversely, 'voluntary choices are routinely influenced by unchosen features of [people's] personalities, temperaments, and the social contexts in which they find themselves' (Scheffler, 2003, p. 18). Political philosophers see the problem as leading to difficult metaphysical questions about personal identity or free will. For social scientists, the empirical implications of the distinction (*which* traits? *what* circumstances? *whose* identities?) remain in the foreground. But the fundamental theoretical issue is very similar: how should we conceive of the relationship between individuals and the social structure?

Two streams of sociological research bring out this issue in ways relevant to political philosophers. The first pushes *downwards*, to examine the influence of social structure on health and other biological attributes. The second pushes *upwards*, to examine the role of culture in the reproduction of structural inequality. In both cases, researchers began with the effort to show how structural effects matter in their own right, but soon moved towards the more difficult task of understanding the reciprocal interaction of interlocking processes at different levels of analysis.

Studies of the relationship between social structure and health take the medical concept of individual risk factors for disease or mortality and ask whether it can be extended to show that one's social location has physiological consequences. 'Social location' can be thought of in various ways. We can investigate the health effects of being resident in one country rather than another, of living in one kind of neighbourhood rather than another (Klinenberg, 2002), of being more or less embedded in a social network (Berkman and Glass, 2000), or of being in a higher or lower position on some scale of prestige (Krieger, 2005). This line of thought goes back to the beginnings of sociology and Durkheim's argument that suicide rates vary inversely with social integration. It has enjoyed a revival in recent years, with researchers emphasizing the health effects of one's relative status, autonomy or other 'social gradient' (Marmot and Wilkinson, 1999). Death rates are lower in US states where income inequality is lower, for instance (Ross et al., 2000), and the same is true cross-nationally of cities (Ross et al., 2005). Associations of this sort are also observable at the level of whole societies (Wilkinson, 2005). Cross-sectional correlations of aggregate rates leave open the possibility that individual-level processes explain these group-level differences (mistaking one for the other is the ecological fallacy). The research goal is to demonstrate the effect of inequality *as such* on people, net of the direct, individual-level effects on health of, say, higher or lower income. Many studies do incorporate individual-level measures and also try to control for temporal selection effects, such as the possibility that a predisposition to poor health makes it harder to get a good job. The best-known work in this area used overtime data on employees in the British civil service to show that risk of mortality from various leading causes was inversely related to position in the occupational hierarchy of the organization, net of individual risk factors (Marmot et al., 1984; Marmot, 2004).

The virtue of this sort of research is that it can estimate effects across levels of analysis. Thus, location on a social gradient or pecking order is shown to affect biological processes associated with ill-health, like the release of corticosteroids (Hellhammer et al., 1997) or the prevalence of fibrinogen in the blood (Brunner et al., 1996). As research moves from cross-sectional snapshots to long-term, multi-level studies, the complexity of measurable interactions increases. For instance, low-birth-weight babies are at risk of negative consequences throughout their lives. The predisposition to give birth to a low-weight baby is influenced by genetics and also by socio-economic status. Once born, such babies may have developmental problems, or be treated differently during childhood from their peers. Many will grow up, achieve some socio-economic position and themselves start families. Disentangling biological and social effects in such circumstances is therefore very difficult (Conley et al., 2003). Recent advances in applied statistics and the prevalence of cheap computing power make it much easier to visualize and estimate cross-level relationships like this, while innovative approaches to qualitative fieldwork can help identify the mechanisms that link socio-economic position to adverse health outcomes (Lutfey and Freese, 2005). These methodological strategies do not solve the theoretical problem of specifying the right causal pathways, but they do aid in their identification.

Similar issues arise in the study of the indirect transmission of material privilege by cultural means. The idea that social groups have distinctive tastes or cultural practices is an old one, appearing in one way or another in the work of each of the classical sociologists. The late Pierre Bourdieu developed the most influential contemporary account of the relationship between taste and stratification (Bourdieu and Passeron, 1977; Bourdieu, 1983; 1984). For Bourdieu, people tend to share a *habitus*, a similar set of tastes and dispositions towards action, to the degree that they have similar educational backgrounds, incomes and occupations. The content of tastes and dispositions, together with one's educational history and credentials, constitute a stock of *cultural capital*. This is not just abstract knowledge that influences the kind of art or music one consumes, but is also a tangible signal of group membership and, most importantly, a set of practical competencies that help establish connections with others. The relevant dispositions are acquired early on, through socialization and via the education system. Cultural capital is embodied in ways of acting that, Bourdieu argues, are converted into more or less beneficial results in terms of social position. Actors struggle for control over resources in social fields, but this happens through practical habits of action rather than explicit strategies. A conscious effort to deploy whatever advantages one has will tend to backfire. Writing in 1930 about eighteenth-century England, Lewis Namier remarked that while a man's status in England could be enhanced by 'birth, rank, wealth, intellect, daring or achievements', these must be 'translated into the truest expression of his sub-conscious self-valuation: uncontending ease, the unbought grace of life' (Namier, 1961, pp. 13–14). It is this kind of unselfconscious striving for position that Bourdieu tries to capture with his concept of *habitus*.[ii]

Bourdieu argues that our nationality, gender, cultural tastes, class position and so on are imprinted in our bodily dispositions, though they are not all equally important. He pictures interactions as struggles for legitimacy, footing or 'recognition', to which we bring our economic, social and cultural capital, expressed through our *habitus*. He wants the *habitus* to be the embodied expression of the social structure in individuals

and the mechanism by which that structure is reproduced. It is 'the way society becomes deposited in persons in the form of lasting dispositions, or trained capacities and structured propensities to think, feel, and act in determinate ways, which guide [people] in their creative responses to the constraints and soliciations of their extant milieu' (Wacquant, 2005, p. 316). In this way, Bourdieu can say that cultural capital systematically or 'objectively' benefits particular individuals or groups over others, and that while people's dispositions are not self-consciously strategic, they are rational with respect to the field actors are struggling in, and correlated with their actual chances of success. This has sometimes led critics to argue that Bourdieu wants to have his cake and eat it, too: that while he resists thinking of individuals as engaged in much cognitive strategizing, he nevertheless wants to say they benefit from their actions in a systematic way, as if they were pursuing a strategy (Elster, 1983, pp. 69–71,107–8).

Annette Lareau provides an extended empirical application of what Bourdieu has in mind in her book *Unequal Childhoods* (Lareau, 2003). Lareau studied white and black schoolchildren (and their families) from different class backgrounds. She argues that parents in the middle-class families saw themselves as 'developing' their children by means of 'concerted cultivation', which is carried out though managed activities, intensive parental involvement and a lot of talk. In the less well-off families, Lareau found parents working towards the 'accomplishment of natural growth'. The working-class children had 'more control over the character of their leisure activities' with 'child-initiated play, clear boundaries between adults and children, and daily interactions with kin' (Lareau, 2003, p. 3). Lareau argues that the strategies of the middle-class parents fit much better with the principles of contemporary educational and professional institutions:

> In this study, there was quite a bit more talking in middle-class homes than in working-class and poor homes, leading to the development of greater verbal agility, larger vocabularies, more comfort with authority figures, and more familiarity with abstract concepts . . . The white and Black middle-class children . . . also exhibited an emergent version of the *sense of entitlement* characteristic of the middle-class. They acted as though they had a right to pursue their own individual preferences and to actively manage interactions in institutional settings . . . The middle-class children were trained in 'the rules of the game' that govern interactions with institutional representatives. (Lareau, 2003, pp. 5–6)

Any particular social field will have some type of capital defined as worth struggling over, and a set of rules regulating its acquisition and allocation. We are predisposed to evaluate the parenting strategies Lareau describes in terms of whether they are good or bad for children. But it is not that the middle-class parenting strategies are better from some neutral standpoint (in the sense of producing happier or morally better children, say), but that they are more effective given what matters in the social field that parents and children occupy. To use Bourdieu's terminology, the *habitus* reinforces power positions in some particular 'field of position-takings' – that is, the web of social relationships in some concrete setting. People 'invest in what they know and have mastered, in areas with which they are familiar and feel at ease . . . in activities for which their know-how, their skills and their habits are best suited' (Buchmann, 1989,

p. 35). As a result, they internalize the 'objective structures' they face and reproduce them through their own dispositions and choices. Their *habitus* is 'necessity internalized and converted into a disposition . . . It is a virtue made of necessity which continuously transforms necessity into virtue by instituting "choices" which correspond to the condition of which it is the product'(Bourdieu, 1984, p. 170). However, a theory of the 'field of position-takings' does not by itself explain what Bourdieu calls the 'space of available positions' – that is, the structure of the system that gives meaning to the ongoing struggles of individuals in the first place. At the individual level, the life course is the actual sequence of statuses and roles achieved by particular people, together with their own representations of their biographies. At the macro level, it is a more-or-less institutionalized set of roles (and rules governing transitions between them), together with collective representations of what a well-ordered life ought to look like (Buchmann, 1989, pp. 15–31). Hierarchies of cultural goods or aesthetic tastes change over time, and their value is more or less institutionalized. Bourdieu's account of the role of the *habitus* in social fields is a way of connecting the two levels of analysis, but we also need a more general account of the origins and trajectory of the system as a whole.

Back to general social theory

This last issue suggests a new point of connection between sociological concerns and debates in political philosophy. Research on inequality and mobility can be thought of as an effort to quantify Rawls's qualification that natural goods are 'influenced' by the basic structure. This work has made a significant contribution to our understanding of modern societies. At the same time, as Bourdieu's work illustrates, sociologists have been looking for better imagery and concepts to represent how individuals find their way within the social structure (Breiger, 1995; Abbott, 2006). The co-evolution of individuals and positions is a fundamental problem for sociology. Modern theories of social structure begin with the clear articulation of the issue. Writing in the 1950s, S. F. Nadel pointed out that although 'relationships and roles . . . "arrange" and "order" the human beings who make up the society, the collection of existing relationships must itself be an orderly one . . . [T]he orderliness *of* a plurality of relationships differs radically from the ordering of a plurality of individuals *through* relationships' (Nadel, 1957, pp. 11–12; see also Lockwood, 1964). The issue of how best to connect these two senses of social organization has been returned to over the years, often with a sense of dissatisfaction. More than a decade after Nadel, Harrison White argued that 'the study of persons is not effectively joined to the analysis of social structure . . . a set of positions is little more than an ideological program until filled by persons; persons in turn have social identities largely defined by their simultaneous position in several networks and structures of positions filled by other persons' (White, 1970, pp. 4–6). A generation later again, James Coleman suggested that social research was tending towards 'a loss of capacity to study a social system as a system, and a fallback to a much simpler task . . . of characterizing the trajectories of individuals within the system' (Coleman, 1991, p. 4; see Breiger, 1995 for further discussion). More recently, and in much the same way, scholars of inequality have decried the tendency to substitute 'difficult structural questions – what are the positions in the labour market and how

are they constructed?' with 'relatively simpler allocation questions – who gets which positions?' (Morris and Western, 1999, p. 649).

There is an affinity between these diagnoses and recent philosophical critiques of the trajectory of liberal egalitarian thought since Rawls (Anderson, 1999; Scheffler, 2003). Elizabeth Anderson argues that debates about justice and inequality have become 'dominated by the view that the fundamental aim of equality is to compensate people for undeserved bad luck – being born with poor native endowments, bad parents, and disagreeable personalities, suffering from accident and illness, and so forth' (Anderson, 1999, p. 288). Adherents of this 'luck egalitarianism' face two tasks. First, they must figure out the rules for distinguishing luck due to one's choices from 'brute luck' that one is not responsible for. Second, they must define the degree to which the latter sort of misfortune should be redressed by the state. Much of the empirical work reviewed above is relevant to these tasks. Beyond providing basic data on the distribution of goods, it challenges the widespread presumption that many individual endowments are natural, or exogenous to social forces. This also brings a deeper connection to light. Anderson's diagnosis of what is wrong with this line of thinking is in essence the same as the critique we have just seen recur in sociology. There is a difference, she says, between justifying the allocation of goods within a given social system, and justifying the structure and reproduction of the system as such. Just as the sociological critics point out that structural questions are more important than allocative ones, Anderson argues that questions about the structure of institutionalized social relationships are the proper topic of the theory of justice: 'free choice within a set of options does not justify the set of options itself . . . the primary subject of justice is the institutional arrangements that generate people's opportunities over time' (ibid., pp. 308–9).

This shift happened in economics, too, but in a much more decisive way, and much earlier. The reorientation of economic thought after the marginal revolution of the 1870s meant that:

> the line which Mill had attempted to draw between the institutional and the historico-relative character of distribution, on the one hand, and the 'natural' character of the laws of production, on the other, became blurred . . . [Q]uestions of property-ownership or class-relations were regarded as falling outside the economist's domain . . . and belonging instead to the province of the economic historian or the sociologist. (Dobb, 1973, p. 172)

The neoclassical toolkit allowed economists not only to give a powerful analysis of equilibrium within the market, but also to naturalize the market itself: it could be thought of less as a social achievement and more as an outgrowth of human nature. The elegance and scope of the theory pushed questions about the market's institutional prerequisites or broader social context into the background. The central project of classical sociological theory, by contrast, was precisely to understand modern society as a whole system, with an emphasis on the interrelations of its major institutions. As we have seen, critics charge that sociology has pursued this goal with mixed success. The pervasive influence and persistent challenge of neoclassical economic analysis has been a kind of lodestone pulling sociology away from systemic and towards allocative questions. Sociology also lacks a modern, normative theory of what sorts of inequality

matter and why. Instead, scholars tend to take for granted that inequality as such is a bad thing and that it ought to be ameliorated. Systematic investigation of this idea within the field is rare. Political philosophy shares the utopian impulse of classical sociology, and of course the development of just such a theory is one of its main goals (which is a good reason for sociologists to read in it). As a field, political philosophy has absorbed much more of the influence of economic thinking than sociology. Conversely, an acquaintance with the sociological approach, particularly studies emphasizing the embeddedness of market exchange in political institutions, formal organizations and social networks, might benefit philosophers looking for a more encompassing perspective on social organization.

We might also say that the sociological perspective counters two vices of the liberal tradition in political philosophy. The first is its reliance on legalistic intuitions about rules and rule-governed institutions. Sociologists think of institutions less as explicitly agreed-upon laws or conventions and more as naturalized, chronically reproduced social practices (Douglas, 1986). The second is a tendency to make too sharp a distinction between choice and circumstance, or nature and nurture, or individual action and the reproduction of the social structure. Although sociology certainly has not resolved these issues, the field has consistently returned to them, making a problem of the link rather than assuming clean divisions where none exist. In this it is temperamentally different from both legal studies and economics.

Conclusion

Calls for interdisciplinary exchange are heartening, and also the traditional way to end this kind of essay. But we are still left with the perverse character of academic disciplines in general, discussed at the beginning of this essay, and the difficulties of sociology in particular. One benefit of the field's heterogeneity is that you can pick and choose. A great deal of sociological research on topics like inequality, social mobility and political economy is accessible to political philosophers. The empirical results provide context and motivation for the kind of stylized examples philosophers prefer to work with, and the dominant imagery of social and individual-level effects is easily grasped.

Elsewhere, though, the willingness of sociologists to take structural and cultural concepts seriously means that the sovereign, rights-bearing, decision-making individual of liberal thought is jettisoned with what might seem to be indecent speed. Network theorists, for instance, see individual identities as emerging (often fleetingly) from a flow of interactions within a set of social relations (White, 1992). In a different area (but with similar consequences for our purposes), scholars of social movements see political identities developing out of structural opportunities for collective action, rather than being there in people's minds, awaiting activation (Clemens, 1997; Armstrong, 2002). The challenge is not just to liberal theory, either. While critical theorists and communitarians hold out the prospect of a substantively rational link between social values and bureaucracies, organizational and institutional theory in sociology has taken a different turn. Organizational practices are seen to diffuse by means of ritualized conformity with culturally validated models of rationality, rather than because of some real push towards economic efficiency, let alone some substantively moral value (Powell

and DiMaggio, 1991). These lines of research may not suit the concerns of any political philosophers, whether liberal-egalitarian, critical, libertarian or communitarian. Then again, as Harrison White notes, 'the disappearance of the person as a useful construct in this era of scientific theory of social action' is not just the fault of sociologists: 'The recent resurgence of "rational actor" models is not inconsistent with [this] view since there is little that is specifically human about rational actors' (White, 1997, pp. 61–2). Philip Mirowski elaborates this point at length, remarking that 'the quest to elevate humanity to deserve the vaunted honorific of "rationality" by painting humans as prodigious machines would seem so neurotically misplaced as to be scandalous, were it not so taken for granted' (Mirowski, 2001, p. 564).

As with the structural, so with the cultural tradition in sociology. Cultural accounts of stratification point to the creation of a 'world polity' of institutions with elaborated ideologies of citizenship, progress and social development. Educational institutions in the twentieth century, for example, expanded in the same way everywhere and at the same time, despite enormous differences between countries. Moral individualism is seen as a rationalized cultural form with associated scripts and practices that bear little relation to any measurable functional needs of societies. John Meyer and his collaborators illustrate their approach by asking what would happen if some previously unknown society was discovered on an island somewhere:

> A government would soon form, looking something like a modern state with many of the usual ministries and agencies. Official recognition by other states and admission to the United Nations would ensue . . . Its people would be formally recognized as citizen with many familiar rights, while certain categories of citizens – children, the elderly, the poor – would be granted special protection . . . What would be unlikely to happen is also clear. Theological disputes about whether the newly discovered *Indios* had souls or were part of the general human moral order would be rare. There would be little by way of an imperial rush to colonize the island. Few would argue that the natives needed only modest citizenship or human rights or that they would best be educated by but a few years of vocational training. (Meyer et al., 1997, pp. 145–6)

On this view, the unexpected homogeneity of occupational status hierarchies, mentioned above, is just another small part of an elaborate and by now pervasive cultural system. The substance of political philosophy – and indeed all amateur and professional social theorizing about citizenship, rights, inequality and justice – is something to be explained in terms of the global diffusion of the scripts, rituals and institutions of modern individualism, borne by administrators and professionals. The fact that stratification experts and liberal egalitarian philosophers can find employment at all is evidence that the theories they produce 'are themselves core cultural elements of modern society . . . The obsessions of theory (e.g., with individual inequality and with the distinction between just and functional inequalities and unjust or power and ascription-ridden ones) are the main cultural themes of modern stratification' (Meyer, 2000, pp. 883–9). The recent move in the philosophical literature towards discussions of global justice, for instance, is unsurprising from a world polity perspective.

The strongest versions of the structural and cultural lines of research in sociology are at odds with the goals of much contemporary political philosophy. While this is not true of the bulk of the research and analysis that sociologists do, it is the strong

programmes that tend to set the agenda for debate and characterize the discipline to those outside it. Of the leading approaches, Pierre Bourdieu's project might be the one most likely to generate productive interdisciplinary engagement. Though developed in a tradition (and an idiom) removed from mainstream political philosophy, there are many points of contact with philosophical concerns, and the ideas are coupled with a close connection to ongoing empirical research on power and inequality. For political philosophers, of course, taking social structure and culture seriously does not mean accepting *en bloc* the various approaches presented here. Given the goals of the field and recent trends within it, though, it should be worth getting better acquainted with the main lines of contemporary sociological research. This is true not just at the more applied wing of the discipline, where there is no shortage of relevant empirical findings, but also on the theoretical end. This may already be happening. It is encouraging, for example, to see the sharpest critic of the sociological approach from the 1970s (Barry, 1978) drawing substantively, and expertly, on the sociological research of the 1990s (Barry, 2005), in the service of an argument about the complex relationship between life chances and social justice. Perhaps this is a sign that the prospects for interdisciplinary exchange are not as bad as all that, after all.

Notes

i Wolin's (2004) sweeping history of political thought incorporates the classical sociologists and brings out ties between sociology and political theory – such as Durkheim's debt to Rousseau, Tocqueville's influence, and the thought of John Dewey – that I cannot discuss here.

ii Namier goes on to remark that, 'Anyone can enter English society provided he can live, think, and feel like those who have built up its culture in their freer, easier hours.' As an immigrant to England himself, Namier may well have been writing in earnest here (he certainly became the embodiment of a certain kind of Tory). Bourdieu would give this a rather more sceptical reading.

References

Abbott, A.: *Chaos of Disciplines* (Chicago, Ill.: University of Chicago Press, 2000).

—: 'Mobility: What? When? How?' In *Mobility and Inequality*, ed. S. L. Morgan, D. B. Grusky and G. S. Fields (Stanford, Calif.: Stanford University Press, 2006).

Alesina, A. and Glaeser, E.: *Fighting Poverty in the U.S. and Europe: A World of Difference* (Oxford: Oxford University Press, 2004).

Anderson, E.: 'What is the point of equality?' *Ethics*, 109 (1999), 287–337.

Armstrong, E. A.: *Forging Gay Identities: Organizing Sexuality in San Francisco 1950–1994* (Chicago, Ill.: University of Chicago Press, 2002).

Barnes, B.: *The Elements of Social Theory* (Princeton, NJ: Princeton University Press, 1995).

Barry, B.: *Sociologists, Economists and Democracy* (Chicago, Ill.: University of Chicago Press, 1978).

—: *Justice as Impartiality* (Oxford: Clarendon Press, 1995).

—: *Why Social Justice Matters* (Cambridge: Polity Press, 2005).

Beetham, D.: *Max Weber and the Theory of Modern Politics* (London: Allen & Unwin, 1974).

Berger, P. and Luckmann, T.: *The Social Construction of Reality: A Treatise in the Sociology of Knowledge* (New York: Anchor Books, 1967).
Berkman, L. F. and Glass, T.: 'Social integration, social networks, social support, and health', in *Social Epidemiology*, ed. L. F. Berkman and I. Kawachi (New York: Oxford University Press, 2000), pp. 137–73.
Boorman, S. A. and White, H. C.: 'Social structure from multiple networks II: Role structures', *American Journal of Sociology*, 81 (1976), 1384–446.
Bourdieu, P.: 'The forms of capital', in *Handbook of Theory and Research for the Sociology of Education*, ed. J. G. Richardson (Westport, Conn.: Greenwood, 1983), pp. 241–58.
—: *Distinction* (Cambridge, Mass.: Harvard University Press, 1984).
—: *The Logic of Practice* (Stanford, Calif.: Stanford University Press, 1990).
—: *Practical Reason: on the Theory of Action* (Stanford, Calif.: Stanford University Press, 998).
Bourdieu, P. and Passeron, J.-C.: *Reproduction in Education, Society and Culture* (Beverly Hills, Calif.: Sage, 1977).
Breen, R., ed.: *Social Mobility in Europe* (Oxford: Oxford University Press, 2004).
Breiger, R. L.: 'The duality of persons and groups', *Social Forces*, 53 (1974), 181–90.
—: 'Social structure and the phenomenology of attainment', *Annual Review of Sociology*, 21 (1995), 115–36.
Breiner, P.: *Max Weber and Democratic Politics* (Ithaca, NY: Cornell University Press, 1996).
Brunner, E. J., Davey Smith, G., Marmot, M. G., Canner, R., Beksinska, M. and O'Brien, J.: 1996. 'Childhood social circumstances and psychosocial and behavioural factors as determinants of plasma fibrinogen', *The Lancet*, 347 (1996), 1008–13.
Buchmann, M.: *The Script of Life in Modern Society: Entry into Adulthood in a Changing World* (Chicago, Ill.: University of Chicago Press, 1989).
Burawoy, M.: *Manufacturing Consent: Changes in the Labor Process Under Monopoly Capitalism* (Chicago, Ill.: University of Chicago Press, 1982).
Cladis, M.: *A Communitarian Defense of Liberalism: Emile Durkheim and Contemporary Social Theory* (Stanford, Calif.: Stanford University Press, 1992).
Clemens, E.: *The People's Lobby: Organizational Innovation and the Rise of Interest Group Politics in the United States, 1890–1925* (Chicago, Ill.: University of Chicago Press, 1997).
Cohen, G. A.: *If You're an Egalitarian, How Come You're so Rich?* (Cambridge, Mass.: Harvard University Press, 2001).
Coleman, J.: *Foundations of Social Theory* (Cambridge, Mass.: Harvard University Press, 1990).
—: 'Matching processes in the labor market', *Acta Sociologica*, 34 (1991), 3–12.
Collins, R.: *Four Sociological Traditions* (New York: Oxford University Press, 1994).
Conley, D., Strully, K. W. and Bennett, N.: *The Starting Gate: Birth Weight and Life Chances* (Berkeley, Calif.: University of California Press, 2003).
Dobb, M.: *Theories of Value and Distribution since Adam Smith* (Cambridge: Cambridge University Press, 1973).
Douglas, M.: *How Institutions Think* (Syracuse, NY: Syracuse University Press, 1986).
Dryzek, J.: 'Critical theory as a research program', in *The Cambridge Companion to Habermas*, ed. S. K. White (Cambridge: Cambridge University Press, 1995), pp. 97–119.
Durkheim, E.: *The Division of Labor in Society*, trans. W. D. Halls (New York: Free Press, 1984).
—: *Professional Ethics and Civic Morals* (London: Routledge, 1992).
—: *The Elementary Forms of Religious Life*, trans. K. Fields (New York: Free Press, 1997).
Dworkin, R.: 'What is equality? II. Equality of resources', *Philosophy and Public Affairs*, 10 (1981), 283–345.
Elster, J.: *Sour Grapes* (New York: Cambridge University Press, 1983).

Erikson, R. and Goldthorpe, J. H.: *The Constant Flux: A Study of Class Mobility in Industrial Societies* (Oxford: Clarendon Press, 1993).

Esping-Andersen, G.: *The Three Worlds of Welfare Capitalism* (Oxford: Polity, 1990).

Etzioni, A.: *The Active Society* (Glencoe, Ill.: Free Press, 1968).

—: *The Spirit of Community: Rights, Responsibilities and the Communitarian Agenda* (New York: Crown, 1993).

Featherman, D. L., Jones, F. L. and Hauser, R. M.: 'Assumptions of social mobility research in the US: The case of occupational status', *Social Science Research*, 4 (1975), 329–60.

Fourcade, M.: 'The construction of a global profession: The transnationalization of economics', *American Journal of Sociology*, 112, 1 (2006), 145–94.

Ganzeboom, H. B. G. and Treiman, D. J.: 'Internationally comparable measures of occupational status for the 1988 International Standard Classification of Occupants', *Social Science Research*, 25 (1996), 201–39.

Ganzeboom, H. B. G., Treiman, D. and Ultee, W. C.: 'Comparative intergenerational stratification research: Three generations and beyond', *Annual Review of Sociology*, 17 (1991), 277–302.

Garfinkel, H.: *Studies in Ethnomethodology* (Englewood Cliffs, NJ: Prentice Hall, 1967).

Gerth, H. H. and Wright Mills, C., eds: *From Max Weber: Essays in Sociology* (New York: Oxford University Press, 1958).

Giddens, A.: *Central Problems in Social Theory* (London: Macmillan, 1979).

—: *Durkheim on Politics and the State*. (Cambridge: Polity Press, 1986).

Giddens, A. and Turner, J., eds: *Social Theory Today* (Stanford, Calif.: Stanford University Press, 1987).

Goodin, R. E., Headley, B., Muffels, R. and Dirven, H.-J.: *The Real Worlds of Welfare Capitalism* (New York: Cambridge University Press, 1999).

Gorski, P. S.: *The Disciplinary Revolution: Calvinism and the Rise of the State in Early Modern Europe* (Chicago, Ill.: University of Chicago Press, 2003).

Habermas, J.: *The Theory of Communicative Action Volume I: Reason and the Rationalization of Society* (Boston, Mass.: Beacon, 1984).

—: *The Structural Transformation of the Public Sphere: An Inquiry into a Category of Bourgeois Society* (Cambridge, Mass.: MIT Press, 1989a).

—: *The Theory of Communicative Action: Lifeworld and System* (Boston, Mass.: Beacon Press, 1989b).

—: *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy* (Cambridge, Mass.: MIT Press, 1996).

Hawthorn, G.: *Enlightenment and Despair: A History of Social Theory*, 2nd edn (Cambridge: Cambridge University Press, 1987).

Hechter, M.: *Principles of Group Solidarity* (Berkeley: University of California Press, 1987).

Hellhammer, D. H., Buchtal, J., Gutbrelet, I. and Kirschbaum, C.: 'Social hierarchy and adreno-cortical stress reactivity in men', *Psychoneuroendocrinology*, 22 (1997), 643–50.

Hollis, M.: *Models of Man* (Cambridge: Cambridge University Press, 1977).

—: *The Philosopy of Social Science*, rev. and updated edn (Cambridge: Cambridge University Press, 2002).

Hout, M.: 'How inequality might affect intergenerational mobility', in *Social Inequality*, ed. Kathryn Neckerman (New York: Russell Sage Foundation, 2004), pp. 969–87.

Hout, M. and Hauser, R. M.: 'Symmetry and hierarchy in social mobility: A methodological analysis of the CASMIN model of class mobility', *European Sociological Review*, 8 (1992), 239–66.

Jencks, C. and Tach, L.: 2006. 'Would equal opportunity mean more mobility?', in *Mobility and Inequality*, ed. S. L. Morgan, D. B. Grusky and G. S. Fields (Stanford, Calif.: Stanford University Press, 2006), pp. 23–58.

Kenworthy, L.: *Egalitarian Capitalism* (New York: Russell Sage Foundation, 2004).
Klinenberg, E.: *Heat Wave: A Social Autopsy of Disaster in Chicago* (Chicago, Ill.: University of Chicago Press, 2002).
Krieger, N.: 'Embodying inequality: epidemiologic perspectives', in *Embodying Inequality: A Review of Concepts, Methods and Measures for Studying Health Consequences of Discrimination*, ed. N. Krieger (Amityville, NY: Baywood Publishing, 2005), pp. 101–58.
Kumar, K.: *Prophecy and Progress: The Sociology of Industrial and Post-Industrial Society* (London: Penguin, 1991).
Kymlicka, W.: *Contemporary Political Philosophy*, 2nd edn (New York: Oxford University Press, 2001).
Lamont, M.: 'The theory section and theory satellites', *Perspectives*, 27 (2004), 1, 10, 14, 16.
Lareau, A.: *Unequal Childhoods: Class, Race and Family Life* (Berkeley: University of California Press, 2003).
Lerner, A.: 'The future of consumer sovereignty', *American Economic Review*, 62 (1972), 258–66.
Lipset, S. M. and Zetterberg, H.: 'A theory of social mobility', *Transactions of the Third World Congress of Sociology*, (1956), III.
Lockwood, D.: Social integration and system integration', in *Explorations in Social Change*, ed. G. K. Zollschan and W. Hirsch (London: Routledge, 1964), pp. 249–67.
Lukes, S.: *Émile Durkheim: His Life and Work* (London: Penguin, 1992).
Lutfey, K. and Freese, J.: 'Toward some fundamentals of fundamental causality: socioeconomic status and health in the routine clinic visit for diabetes', *American Journal of Sociology*, 110 (2005), 1326–72.
Marmot, M.: *The Status Syndrome: How Social Standing Affects Our Health and Longevity* (New York: Times Books, 2004).
Marmot, M. and Wilkinson, R. G., eds: *Social Determinants of Health* (Oxford: Oxford University Press, 1999).
Marmot, M. G., Shipley, M. J. and Rose, G.: 'Inequalities in death – specific explanations of a general pattern?', *The Lancet*, (1984), 1003–6.
Marx, K.: 2000. 'Wage-labour and capital', in *Karl Marx: Selected Writings*, ed. David McLellan (London: Oxford University Press, 2000), pp. 273–94.
Meyer, J.: 2000. 'The evolution of modern stratification systems', in *Social Stratification*, 2nd edn, ed. D. B. Grusky (Boulder, Col.: Westview Press, 2000), pp. 881–90.
Meyer, J. W., Boli, J., Thomas, G. M. and Ramirez, F. O.: 'World society and the nation state', *American Journal of Sociology*, 103 (1997), 144–81.
Mirowski, P.: *Machine Dreams: Economics Becomes a Cyborg Science* (New York: Cambridge University Press, 2001).
Mommsen, W. 1989. 'The antinomical structure of Max Weber's political thought', in *The Political and Social Theory of Max Weber* (Cambridge: Polity Press, 1989), pp. 24–43.
Moore, B. *Social Origins of Dictatorship and Democracy* (London: Penguin, 1991).
Morris, M. and Western, B.: 'Inequality in earnings at the close of the twentieth century', *Annual Review of Sociology*, 25 (1999), 623–67.
Nadel, S. F.: *The Theory of Social Structure* (Glencoe, Ill.: Free Press, 1957).
Namier, L.: *England in the Age of the American Revolution*, 2nd edn (London: Macmillan, 1961).
Offe, C. and Ronge, V.: 'Theses on the theory of the state', *New German Critique*, 6 (1975), 139–47.
Parsons, T.: *The Social System* (Glencoe, Ill.: Free Press, 1952).
—: *The Structure of Social Action, Volume I: Marshall, Pareto, Durkheim*, 2nd edn (New York: Free Press, 1968a).

—: *The Structure of Social Action, Volume II: Weber*, 2nd edn (New York: Free Press, 1968b).
Parsons, T. and Shils, E. A.: 'Values, motives and systems of action', in *Toward a General Theory of Action*, ed. T. Parsons and E. A. Shils (Cambridge, Mass.: Harvard University Press, 1951), pp. 53–79.
Peel, J. D. Y.: *Herbert Spencer: The Evolution of a Sociologist* (London: Heinemann, 1971).
Pettit, B. and Western, B.: 'Mass imprisonment and the life course: race and class inequality in US incarceration', *American Sociological Review*, 69 (2004), 151–69.
Pogge, T.: 'On the site of distributive justice: reflections on Cohen and Murphy', *Philosophy and Public Affairs*, 29 (2000), 137–69.
Powell, W. W. and DiMaggio, P. J., eds: *The New Institutionalism and Organizational Analysis* (Chicago, Ill.: University of Chicago Press, 1991).
Rawls, J.: *A Theory of Justice* (Oxford: Oxford University Press, 1973).
—: *Political Liberalism* (New York: Columbia University Press, 1993).
Rojas, F.: 2006. 'The cybernetic institutionalist', in *The Active Society Reconsidered*, ed. W. C. McWilliams (New York: Rowman and Littlefield, 2006), pp. 61–78.
Ross, N. A., Wolfson, M. C., Dunn, J. R., Berthelot, J. M., Kaplan, G. A. and Lynch, J. W.: 'Relation between income inequality and mortality in Canada and in the United States: cross-sectional assessment using census data and vital statistics', *British Medical Journal*, 320 (2000), 898–902.
Ross, N. A., Dorling, D., Dunn, J. R., Henriksson, G., Glover, J., Lynch, J. and Weitoft, G. R.: 'Metropolitan income inequality and working-age mortality: a cross-sectional analysis using comparable data from five countries', *Journal of Urban Health*, 82 (2005), 101–10.
Scheffler, Samuel: 'What is Egalitarianism?' *Philosophy and Public Affairs* 31 (2003), 5–39.
Selznick, P.: *TVA and the Grass Roots* (Berkeley: University of California Press, 1949.
—: *The Moral Commonwealth: Social Theory and the Promise of Community* (Berkeley: University of California Press, 1991).
Simmel, G.: *Conflict and the Web of Group Affiliations* (New York: Free Press, 1964).
Stinchcombe, A. L.: *Constructing Social Theories* (New York: Harcourt, Brace and World, 1968).
Swenson, P.: *Fair Shares: Unions, Pay and Politics in Sweden and West Germany* (Ithaca, NY: Cornell University Press, 1989).
Swift, A.: *How Not to be a Hypocrite: School Choice for the Morally Perplexed Parent* (London: Routledge Falmer, 2003).
Therborn, G.: *What Does the Ruling Class Do When It Rules?* (London: Verso, 1978).
Torche, F.: 'Unequal but fluid: social mobility in Chile in comparative perspective', *American Sociological Review*, 70 (2005), 422–50.
Treiman, D. J.: 'Industrialization and social stratification', in *Social Stratification: Research and Theory for the 1970s*, ed. E. O. Laumann (Indianapolis, Ind.: Bobbs–Merrill, 1970), pp. 207–34.
—: *Occupational Prestige in Comparative Perspective* (New York: Academic Press, 1977).
Unger, R. M.: *Politics: The Central Texts* (Cambridge: Cambridge University Press, 1997).
Wacquant, L.: 'Habitus', in *International Encyclopedia of Economic Sociology*, ed. J. Beckert and M. Zafirofski (London: Routledge, 2005), pp. 315–19.
—: *Deadly Symbiosis: Race and the Rise of Neoliberal Penality* (Cambridge: Polity Press, 2006).
Weber, M.: *Economy and Society* (Berkeley: University of California Press, 1978).
—: *The Protestant Ethic and the Spirit of Capitalism* (New York: Routledge, 2001).
Weeden, K.: 'Why do some occupations pay more than others? Social closure and earnings inequality in the United States', *American Journal of Sociology*, 108 (2002), 55–101.

Western, B.: *Punishment and Inequality in America* (New York: Russell Sage Foundation, 2006).
White, H.: *Chains of Opportunity: System Models of Mobility in Organizations* (Cambridge, Mass.: Harvard University Press, 1970).
—: *Identity and Control: A Structural Theory of Social Action* (Princeton, NJ: Princeton University Press, 1992).
—: 'Can mathematics be social? Flexible representations for interaction process and its sociocultural constructions', *Sociological Forum*, 12 (1997), 53–71.
White, H. C., Boorman, S. A. and Breiger, R. L.: 'Social structure from multiple networks I: Blockmodels of roles and positions', *American Journal of Sociology*, 81 (1976), 730–79.
Wilkinson, R. G.: *The Impact of Inequality: How to Make Sick Societies Healthier* (New York: New Press, 2005).
Williams, R.: *Keywords: A Vocabulary of Culture and Society* (London: Fontana, 1983).
Wolin, S. S.: *Politics and Vision*, expanded edn (Princeton, NJ: Princeton University Press, 2004).

Further reading

Adams, J., Clemens, E. and Orloff, A. S., eds: *Remaking Modernity: Politics, History, and Sociology* (Durham, NC: Duke University Press, 2005).
Bourdieu, P.: 'Genesis and structure of the bureaucratic field', *Sociological Theory*, 12 (1994), 1–18.
—: *The State Nobility: Elite Schools in the Field of Power* (Cambridge: Polity Press, 2000).
Centeno, M. A.: 2002. *Blood and Debt: War and the Nation-State in Latin America* (University Park, Pa.: Pennsylvania State University Press, 2002).
Crouch, C.: *Social Change in Western Europe* (Oxford: Oxford University Press, 1999).
Evans, P. R., Rueschemeyer, D. and Skocpol, T., eds: *Bringing the State Back In* (New York: Cambridge University Press, 1985).
Gaventa, J.: *Power and Powerlessness: Quiescence and Rebellion in an Appalachian Valley* (Urbana, Ill.: University of Illinois Press, 1982).
Grusky, D. B., ed.: *Social Stratification: Class, Race and Gender in Sociological Perspective*, 2nd edn (Boulder, Col.: Westview Press, 2000).
Jepperson, R. L.: 'Political modernities: disentangling two underlying dimensions of institutional differentiation', *Sociological Theory*, 20 (2002), 61–85.
Mann, M.: *The Sources of Social Power, Volume I: A History of Power from the Beginning to A.D. 1760* (Cambridge: Cambridge University Press, 1986).
McAdam, D. and Snow, D., eds: *Social Movements: Readings on their Emergence, Mobilization, and Dynamics* (Los Angeles, Calif.: Roxbury Publishing, 1997).
Nash, K. and Scott, A., eds: *The Blackwell Companion to Political Sociology* (Oxford: Blackwell, 2001).
Poggi, G.: *The Development of the Modern State: A Sociological Introduction* (Stanford, Calif.: Stanford University Press. 1978).
Porta, D. D. and Diani, M.: *Social Movements: An Introduction* (Oxford: Blackwell, 1999).
Schofer, E. and Fourcade-Gourinchas, M.: 'The structural contexts of civic engagement: voluntary association membership in comparative perspective', *American Sociological Review*, 66 (2001), 806–28.
Skocpol, T.: *States and Social Revolutions* (New York: Cambridge University Press, 1979).

Starr, P.: *The Creation of the Media: Political Origins of Modern Communications* (New York: Basic Books, 2004).
Stinchcombe, A. L.: *The Logic of Social Research* (Chicago, Ill.: University of Chicago Press, 2005).
Swenson, P.: *Capitalists Against Markets: The Making of Labor Markets and Welfare States in the United States and Sweden* (New York: Oxford University Press, 2002).
Wright, E. O., ed.: *Approaches to Class Analysis* (New York: Cambridge University Press, 2005).

Chapter 5

Economics

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Introduction

Some understanding of what 'political philosophy' and 'economics' are is presupposed by the title to this article. It is useful to begin by briefly setting out what those understandings will be. Political philosophy for my purposes here will be taken as equivalent to normative social theory. Political philosophy's concerns may be *centred* on the institutions and actions of the state – on politics more narrowly construed – but I shall include *all* forms of social organization, including specifically decentralized ones like anarchy and the market, within the scope of political philosophy as here understood. This understanding of political philosophy may be rather broader than that adopted in other contributions to this volume, but, given the nature of economists' preoccupations within political theory, the greater breadth is necessary.

The situation in defining economics itself is more complicated. Economics can be understood either in terms of its subject matter (incomes, prices, production, industrial organization, etc.) or in terms of its intellectual method. The understandings are not equivalent: the economy can be examined by reference to methods that no economist would own; and much of current journal space in economics is taken up with non-traditional subject matter (the 'economics' of politics; the economics of law; the economics of crime and punishment, and so on). I here explicitly take the latter line: economics will be defined by reference to its distinctive 'way of thinking' (as Paul Heyne (1973) puts it in his admirable introductory textbook). This way of thinking has several characteristic features: its individualist methodology; its assumptions about agent rationality; its abstract, deductive style; its attention to relative prices and changes in them in explaining social phenomena; its exploitation of the average–marginal distinction; and so on. We shall examine briefly how this intellectual method has been applied to the analysis of political processes specifically; that application will turn up as a matter of course in discussing the economist's theory of the state (pp. 137–47).

At this point, however, I want to draw attention to a more general aspect of 'the economic way of thinking', namely, the economist's characteristic style of normative theorizing. This style is not necessarily unique to economists: in broad terms, it is shared by utilitarians and indeed most other kinds of consequentialists. But in the economistic

incarnation, there are certain features that are in other incarnations less severely drawn. Two features, in particular, are notable:

- the radical separation of 'purely positive' from 'purely normative' elements in normative social theory;
- the concentration of analytical firepower on the former 'positive' element.

The positive/normative separation at stake here is not primarily an epistemological one. Its major effect is to conceptualize normative social theory in terms more or less analogous to the standard model of individual consumer choice. In that latter model, the consumer is conceived as scanning the set of feasible options and choosing that option which is of highest value to her; the analysis presupposes a radical dichotomy between 'opportunity sets' and 'preferences', between demand and supply. In the case of normative analysis, there is a corresponding scanning of the feasible set, to isolate that element that is best according to the ethical norm used – a corresponding confrontation of the feasible with the desirable. And just as the consumer who misspecifies the feasible set will, in general, choose a less preferred bundle, so the ethical observer who misspecifies the feasible set will typically make moral mistakes. Taking feasibility considerations seriously is on this account a critical aspect of proper normative theorizing, and it is in providing a proper sense of what *is* feasible that the economist's contribution lies. Moreover, it is the failure to isolate feasibility considerations in this self-conscious way and to focus appropriately on them – the failure, in short, to take feasibility seriously – that the economist identifies as the primary weakness of traditional political philosophy.

Now, the requirement that due account be taken of the feasible is an unambitious one and ought to be uncontentious. Moreover, it is (or ought to be) the claim of any social scientist and not just the economist. After all, if there is anything at all to the idea of social science, it must hang on the possibility that not all imaginable worlds are feasible: the acceptance of causal links that 'explain' why the social order is as it is (or why particular aspects of the social order are as they are) carries with it the implication that, given those causal factors, the social order could not have been otherwise, or could have been otherwise only by virtue of the intervention of unusual factors. The social scientist, whatever the particular mode of analysis brought to bear and whatever the causal factors perceived to be relevant, will therefore want to insist on a form of normative analysis that takes feasibility seriously in my sense.

This formulation, in which 'desirability' and 'feasibility' considerations are separated, invites a confusion over the meaning of 'desirability'. On the one hand, desirability might be understood as purely ethical desirability; on the other, it might be understood as 'overall desirability' – specifically *including* feasibility considerations. Purely ethical desirability will be understood to include every ethical consideration. It will not leave out of account any component of what makes one situation rather than another more desirable ethically, but purely ethical desirability will leave out of account considerations about the way the world lies. So it is not the case that 'ethically desirable implies can', in the manner that 'ought implies can' in the familiar aphorism; however, 'overall desirability' does imply feasibility in this sense. When we confront ethical desirability with feasibility we decide on what should be done all things

considered – meaning to include both desirability and feasibility aspects. The idea is that we should do our analysis in two steps. First, we determine what is ethically desirable, all purely ethical things considered. And then we use the 'ought implies can' rule to determine *overall* desirability as the final piece of the optimization process. This means that there is a distinction between purely ethical desirability, on the one hand, and overall desirability, on the other, that it is crucial to preserve. In what follows, I shall normally refer to 'desirability' with its appropriate modifier. In some cases, however, the context will be such that it is clear which of the two concepts is in play, and then the modifier may be dropped.

None of this necessarily implies that feasibility considerations have any particular primacy in the determination of overall desirability. Desirability and feasibility are, within this scheme, equal partners – equally indispensable blades of the normative scissors (exactly analogous to 'demand' and 'supply' in the determination of price, or preferences and opportunity sets in the standard analysis of consumer choice). How then can the economist's focus on the feasible be justified?

In considerable measure, the economist's focus simply reflects an appropriate division of intellectual labour. The economist/social scientist has (or ought to have) a special expertise in matters of feasibility that she does not possess in matters of desirability. Nevertheless, economists have wanted to say *something* about desirability, and this for two reasons. First, for some purposes in ethical theorizing, the abstract, technical, deductive orientation of economic theory turns out to be extremely useful. For example, Arrow's (1951) famous impossibility theorem (which we discuss briefly below, pp. 131–2); Harsanyi's work in utilitarianism and uncertainty (Harsanyi, 1955; 1976); Buchanan's (1962; 1977) exposition of one important strand of contractarianism; and the writings of Amartya Sen (1977; 1979; 1982) and John Broome (1978; 1991) all represent contributions to ethical theory by persons who were originally trained as economists. This work involves the application of logic and, sometimes, mathematical technique to questions in moral philosophy without the intrusion of any social constraints as such in the analysis. Because social constraints play a subsidiary role in this line of enquiry, it will not be a major preoccupation in what follows. But I say a little about the Arrow theorem in the context of the discussion of interpersonal comparisons of utility. (Hamlin (1986) provides a useful survey treatment.)

However, there is a second reason for the economist's interest in purely ethical questions, and this aspect will be of concern here. The reason is this: the conception of normative social theory as the confrontation of the feasible with the desirable has implications for how desirability is conceived and formulated. If there is to be a major role for feasibility analysis in political philosophy, not just any old conception of desirability will do. Moreover, feasibility considerations may bite more deeply into the definition of desirability than might at first appear. I shall examine two particular areas where economists have used feasibility considerations to make an assault directly on conceptions of the desirable (pp. 128–36). One of these involves the collapse of utilitarianism as the central paradigm in welfare economics. The second revolves around the constraints imposed by 'fallen' human nature – and the way in which feasibility in the area of human motivations colours the way in which the notion of desirability is formulated. That discussion forms a suitable point of departure for the discussion of the economist's 'theory of the state' (see pp. 137–47).

Before we get to that point, however, it will be useful to lay out the economist's conception of desirability, to connect it to more familiar utilitarian notions and to explain how that conception fits within an overall normative scheme in which feasibility considerations are to play a major, and perhaps predominant, independent role. This task occupies pp. 121–8. A brief conclusion is offered at pp. 147–9.

General Normative Theory: the Economist's Picture

An economist's picture of desirability

The predominant conception of desirability used in economics is based on the Paretian family of concepts. The Pareto criterion states that a state of the world, X, is better than another state, Y, if no one is worse off in Y than in X, and that at least one person is better off in X. A movement from one state to another that satisfies the Pareto criterion is said to be 'Pareto-desirable'. Three characteristics of the Pareto criterion are worth noting. First, it is 'personal' in the sense that ethical desirability of alternative states is exhausted by considerations that are integral to persons. Moral goodness must be goodness for someone. Second, the personal consideration that is relevant is the individual's well-offness as assessed by preference satisfaction: any individual is better off if she enjoys more preference satisfaction. Third, and as a consequence, the attributes of states of the world that are normatively relevant are those that bear on individuals' preferences.

These three features are shared with utilitarianism – at least the variant of utilitarianism that is most familiar in economics. Where utilitarianism is distinctive is that utilitarianism ranks states of the world according to the aggregate sum of preference satisfaction across persons, whereas the Pareto criterion ranks only those states of the world in which everyone's preference satisfaction is higher (or no less). One implication is that whereas utilitarianism provides a complete ranking of all possible states of the world, the Pareto criterion does not. Comparisons between states of the world in which some individuals are better off and some worse off are not possible under the Pareto criterion.

Since virtually any action or policy or institutional change is almost certain to make someone worse off, the test of Pareto desirability does not seem to be of much use as a guide to practical action. Two kinds of responses to this difficulty can be found in the welfare economics literature. One begins with the notion of 'Pareto optimality'. A Pareto optimum is a position from which no Pareto-desirable moves are feasible. This strand then attempts to measure the 'distance' from Pareto optimality associated with particular states of the world, and recommends moves 'closer' to Pareto optimality. This is the strategy of the so-called 'new welfare economics' of Kaldor (1939), Hicks (1940) and Scitovsky (1941–2), and is most familiar from the techniques of modern cost–benefit analysis. Head (1974) provides a useful, article-length survey of this literature. One object in this conception of the Pareto norm has been to leave scope for the application of distributional considerations. Greater 'efficiency' (closeness to a Pareto optimum) may have to be weighed against greater 'equity' (normally conceived as reducing the variance or some similar measure of dispersion in the income distribution). The clear object here is to be able to proffer normatively defensible advice on

matters of day-to-day policy (a classic application of this approach is to be found in Musgrave, 1959).

The other response to the failure of the Pareto criterion to deliver decisive moral advice is to restrict the application of the Pareto criterion to the 'constitutional' level, at which the basic rules of the socio-politico-economic game are chosen. That is, instead of applying the Pareto criterion to particular policies, the analyst applies it to the rules under which policies are determined. The claim here is that, at this more abstract level of evaluation, agreement is most likely to be secured – both because, on an argument akin to Rawls's defence of the veil of ignorance, individuals will be more prone to look to aggregate interests, and because we are likely to know more about the normative properties of institutional arrangements than about those of particular policies. The chief exponent of this second, 'institutional' interpretation of the Pareto test is Buchanan (1962; 1977) both individually and in various collaborations (Buchanan and Tullock, 1962; Brennan and Buchanan, 1985).

The institutional focus characteristic of the Buchanan approach draws some of its force from the fact that important propositions in welfare economics (that part of economics that deals explicitly with normative issues) relate specifically to the institution of the competitive market. These propositions are referred to as the 'fundamental theorems' of welfare economics. The first theorem states that perfect competition, in an environment of complete markets, yields an outcome that is Pareto optimal. The second theorem states that every possible Pareto optimum can be achieved under perfect competition, with the appropriate set of lump-sum transfers. The classic modern treatment is Arrow and Hahn (1971). Analogously, the most familiar exercise in welfare economics involves the comparison of perfect competition with monopoly (showing the departure from Pareto optimality that the monopoly structure involves). Buchanan's particular ambition has been to expand the range of such institutional comparisons so as to include not only alternative forms of market organization but also, specifically, alternative *political* arrangements.

A significant feature of the economist's use of 'preference-satisfaction'-based notions of desirability is that, by virtue of the assumption of agent rationality, there is a presumption in favour of institutions that 'respect' agent choices. In the absence of special circumstances (to be detailed later), individuals' choices can be taken to maximize their preference satisfaction. This fact reveals one important difference between economists and political philosophers: the former tend to assume agent rationality as a matter of course, while the latter are likely to be more sceptical (or inclined to define rationality in more directly moral terms).

Three properties of 'desirability', economist-style

With this rather spare description as background, I want to turn to the question as to why the Paretian framework has commended itself to economists. This question has two parts: first, why the Paretian framework has been preferred over ordinary utilitarianism; and second, the more general question as to what properties the conception of the desirable will have to exhibit if matters of feasibility are to occupy a central place in normative theory. The former question is postponed (see pp. 128–31). The latter I turn to immediately.

I want to argue briefly three propositions in this connection: first, that a concern with feasibility requires 'continuity' in the conception of desirability – that is, desirability must be formulated in terms of 'betterness' rather than 'goodness' (Broome, 1999, ch. 10), or in terms of 'degrees of rightness and wrongness' rather than 'rightness' and 'wrongness' *simpliciter* – a requirement that utilitarianism and its cognates fulfil; second, that to make room for feasibility concerns, the ultimately valued ends must be an appropriate analytical distance away from the objects of choice (actions, policies, institutional arrangements, etc.), something that is true in most forms of consequentialism and is less likely to be true of deontological accounts of desirability; and third, that feasibility concerns are antipathetic to certain kinds of ethical idealism (kinds that tend to be common in much standard moral philosophy).

Continuity of desirability measures If feasibility is a relevant issue, it is so because any independently specified 'ideal' (in whatever terms that ideal is specified) may turn out, on investigation, to be infeasible. Accordingly, if specifying that independent ideal is to do any real normative work, the normative framework must contain a notion of being closer to or further from that ideal, at least within the relevant range. This requirement does not necessarily require the desirability measure to specify a complete ranking of all imaginable states of the world – or even a complete ranking of all *feasible* states (though clearly either would be *sufficient* conditions for relevance). All that is required is that within any set of feasible states, the desirability measure will isolate that which is best. Which among the others is second and which third best is, in itself, irrelevant. However, in the absence of independent knowledge as to what the feasible set is, or in the face of possible changes in that feasible set which may eliminate a previous best, some form of 'continuity' in the notion of desirability will be required if desirability considerations are to be capable of speaking.

Note that the Pareto criterion will not, in general, serve to isolate a *unique* 'best': all states of the world that are Pareto desirable *vis-à-vis* some status quo state are equally superior, and there will typically be many such. But the requirement of continuity in the sense used here is fulfilled by the Pareto criterion: in any feasible set, the Pareto criterion will always isolate a subset of ideal points.

The problem of non-continuity can best be captured by an illustration. Consider the concept, widely used in normative tax analysis, of 'horizontal equity'. This concept specifies that taxes (or more appropriately, the total tax system) should be such as to 'treat equals equally', normally interpreted to mean that identical tax burdens should be imposed on those with identical capacity to pay. Almost all the debate in public finance theory has revolved around how 'capacity to pay' should be defined. However all *feasible* tax systems will violate that norm to some extent, almost independently of how capacity to pay is understood. It is not enough therefore to define the horizontal equity ideal; comparison of rival tax systems requires some suitable measure of the 'degree of horizontal inequality'. It is, moreover, important to specify such a measure explicitly. We need to be sure that such a measure satisfies our disciplined intuitions, and that policies taken to 'improve' horizontal equity do indeed do so. (The small literature in public finance theory on this matter – Johnson and Mayer (1962); White and White (1965); Brennan (1971; 1972) and Plotnick (1982) – reveals a considerable amount of controversy over aspects that have quite major tax policy implications.)

There are, in fact, quite general dangers in being intuitionist about nearness to a well-specified ideal. These dangers are the subject matter of the so-called 'theory of the second-best' in welfare economics, and it is useful to discuss this theory briefly at this point. The basic issue in the theory of the 'second-best' is that of isolating the (first) best arrangement in a context where a well-specified conceptual ideal is infeasible. Thus, the theory of the 'second' best is really the theory of the *feasible* best when all relevant constraints are fully specified. The *point* of the theory, however, is to emphasize that the ostensible character of that feasible best may differ markedly from the character of the ideal. The original formulation of the second-best theorem (Lipsey and Lancaster, 1956–7) relates to a circumstance in which the conceptual ideal is specified in terms of the simultaneous application of three interrelated conditions: the theorem states that if there is a constraint that prevents satisfying one of these conditions, then the feasible best (feasible *given* that constraint) will in general involve violating all three conditions. To take a well-worked economic example, it is ideally efficient that a goods and services tax should impose identical tax rates on all objects of agent satisfaction (supposing that distributional objectives can be attended to via other instruments of policy). But suppose that some good *cannot* be taxed (the 'good' in question is often taken to be leisure). Then in general it will not be best to tax all taxable goods at uniform rates: goods should be taxed at different rates according to their degree of substitutability with the tax-exempt good (leisure) (see Atkinson and Stiglitz, 1980, lecture 12). An analogous theorem can be derived for the case in which horizontal equity rather than efficiency is the tax goal: if some good or income source cannot be (fully) taxed, then it will increase horizontal equity to tax remaining goods/income sources at appropriately differential rates.

The general argument here, then, is that taking proper account of feasibility requires one to formulate the desirable in appropriately continuous form: in general, specifying the desirable by reference to some independently derived 'ideal' will not in itself be enough.

The abstract conception of the desirability If there is to be scope for feasibility analysis, there must be an appropriate gap between the objects of ultimate value and the objects of choice: it is in that gap that feasibility analysis bites. To appeal to a mechanistic analogy, the objects of choice can be construed as levers to the social machine from which the valued output emerges. The role of social analysis is to explain how that machine works – how action on levers translates into output. If the machine is simple, or if there is no engine at all – if, for example, the lever is itself the object of ultimate value – there is no room for social analysis to do relevant work.

It may seem at first blush that the requirement commits us to some form of consequentialism – to something like the utilitarianism or modified utilitarianism that has played such a major role in economics, for example – against any form of deontology. But the consequentialism/deontology issue is logically independent of the issue at hand. Consider, for example, a deontological norm of the Kantian-imperative kind. Here, each person is required to act in a way (according to some *rule* of conduct, perhaps) that would, if universalized, lead to the social ideal. Deriving what action is implied by this requirement (whether the notion is mediated by a rule or not) will often require much in the way of social analysis. Obversely, a consequentialist scheme may specify as the relevant consequence something which is pretty much directly under the agent's control. Suppose, for

example, that the relevant norm is maximal truth telling. Here, to be sure, the agent has to be concerned in principle with the possibility that her truth telling in a particular case may lead to *less* truth telling overall. But the force of that concern in all but special cases is surely negligible: in practice, the agent can simply go ahead and tell the truth. There seems to be little scope here for social analysis of the elaborate kind that economics represents. There is no need to 'take feasibility seriously'.

What is at stake here may be clarified by a relevant example. So, consider 'democracy'. It is self-evident that in order to evaluate democracy as an alternative to other forms of political organization, democracy itself cannot figure as an ethical prime. To point out that democracy is, after all, democracy provides in itself no reason for supporting it – except perhaps to the extent that multiple meanings of the term are in play (in which case proper argument is aided by exposing the ambiguity). To describe some regime or policy or action as 'undemocratic or 'anti-democratic' can only have normative force when democracy is already taken as a 'good': the description can invite questions of classification (is the regime really undemocratic?) or definition (what characteristics would determine whether it is democratic or not?) but it cannot operate to show how or why democratic regimes/policies, etc. are superior. One way or another, any justificatory argument (as opposed to mere assertion) must make appeal to more primal values which democracy is seen to promote in some way.

Now, it is customary to distinguish two ways in which those more primal values might be promoted: democracy may 'express' those values; or democracy may produce social outcomes that are superior by reference to those values. Suppose, for argument's sake, that the primary value here is 'equality' (appropriately specified). Then we might say that democracy promotes equality either

1 by exhibiting equality directly – say, via universal franchise; or
2 by establishing a more egalitarian sentiment generally in the population; or
3 by producing, through democratic procedures, a more equal distribution of income or wealth.

In the latter two cases at least, there seems to be considerable scope for social analysis: in the one case, how values come to be established within the community and what the influence of choice of different political institutions on the relevant value-creation processes are; in the other case, how democracy works to produce particular policies that have distributive impact and how those policies actually affect the income distribution. The contrast is with the first case, in which democracy is evaluated by reference to an intrinsic property: here there is no analytical gap between democracy and equality in which the social theorist can work. But even here it is the *directness* rather than the notion of instantiation/expression/exhibition that bears. If equality were seen to be exhibited not directly via universal franchise but indirectly via the 'equal' pattern of representation to which democratic institutions are supposed to give rise, then scope for analysis reappears. The question of whether universal franchise on a one-person-one-vote basis does reliably generate an accurate pattern of representation is a complex one; and the possibility that some appropriately unequal pattern of voting rights might generate a more accurate pattern of representation cannot be ruled out on *a priori* grounds.

We should perhaps also note that it is by no means self-evident that democratic institutions will have egalitarian effects on the distribution of income. If income equality matters and if greater such equality is seen to be part of the reason for democratic processes, then whether greater income equality is *feasible* and whether and to what extent democracy promotes such equality are questions that naturally arise. My point here is not to argue one position or another on these questions (I do this later in relation to arguments about 'the distributive state'). The point is rather that those questions and others like them must be on the agenda if economists (or social analysts more generally) are to have anything to contribute. Whether those questions *are* on the agenda or not depends on how much logical distance there is between the object of control and the object of evaluation. What the objects of evaluation are is one critical aspect of that issue. Those economists who believe that they have something to contribute to political philosophy will therefore be those who hold to an appropriately abstract account of 'the desirable'. Utilitarianism or something like it is an obvious contender but, as I have been at pains to point out, it is not the only possibility.

The comparative mode: the best vs. the good When one starts normative analysis from the feasibility end, with a conception of moral evaluation as an act of *choice*, one is almost by necessity forced into a comparative mode of thinking: the relevant exercise is to compare the ethical properties of *alternative feasible* possibilities (whether these possibilities be actions or states of the world or institutional arrangements or whatever). Any one possibility *chosen* clearly involves another forgone – that is what it means for the (feasible) possibilities to be alternatives. If the possibilities are not alternatives – if one can have one's cake and eat it too – then it is not clear how feasibility constraints bite at all. The forgone options necessarily involved in any choice must obtrude into any proper moral evaluation of that choice.

This requirement is an assault on our natural repertoire of moral responses. We are often outraged at some aspect of what we see. Sometimes we are delighted at what we see and naturally want to lend it support. But this procedure of giving an observed situation an ethical ranking in isolation from relevant alternatives, or based on some intuitive comparison with a notional ethical ideal, violates the requirement of proper comparative analysis. After all, anyone with a little moral imagination will have no difficulty in conceiving a world better than the one we currently inhabit – where wars are made to cease in all the world; where the lion and lamb lie down together; where the desert rejoices and blossoms as a rose; where all eat and are satisfied. The question is whether such better worlds are really feasible. Put another way, feasibility analysis points up as a critical part of the moral enterprise the identification of 'real' problems (those for which some remedy exists) as opposed to spurious ones (those that are a creature of humans' excessively fertile moral imaginations). For the economist, identifying 'real' problems so defined is a central part of the economist's own art. As Frank Knight used to remark, to call a situation hopeless is to recognize it as optimal. This, then, is one sense in which the best may be the enemy of the good. The feasible best may not be 'good' at all. However, if all feasible alternatives are even worse – if what we see is indeed the *best* – then the quest for better options can only lead to deterioration.

There is another sense in which the good and the best may be at odds. Suppose you have focused your attention on a particular action or policy, and suppose you have

good reason for believing this action/policy to have good consequences, and that this action or policy is something you *can* bring about. Nevertheless, the normative case is inadequate. There may be some other action/policy, also feasible, that is ruled out by undertaking the first – perhaps, in the policy case, because fiscal dollars are limited, or the parliamentary agenda can only accommodate one more bill; or, in the action case, because one can't be in two places at once. Then the first action/policy should make way for the better one. What economists refer to as the 'opportunity cost' (the value of what is forgone) of the first action/policy is too high. This, then, is a second way in which the good may be the enemy of the best.

Both manifestations of the comparative mode may appear deeply conservative: on the one hand, doing nothing while we wait around to be sure that some manifest improvement does not preclude an even greater improvement; and on the other, suppressing natural outrage at elements in the status quo (or suppressing natural enthusiasm for promoting some other elements) on the grounds that bad may be best. But the alleged conservatism involves a mistake. Feasibility analysis does not establish a case for absence of change in policy or institutional arrangements, where there is a presumption that such changes would lead to improvement. All that is demanded is that the changes in question must be *specified*, so that their likely effects can be analysed and compared. What is ruled out is merely the argument that because something is 'wrong', anything would be better.

Finessing desirability questions

So far in this section, I have described what conceptions of desirability economists have in fact been inclined to use, and have tried to show how these conceptions fit with a view of normative social analysis that leaves considerable room for feasibility analysis. Within that view of political philosophy, feasibility considerations are 'trumps': actions undertaken or policy proposals implemented on the basis of false theories, and specifically theories that misperceive what is feasible, will not achieve desired improvements and will sometimes have extremely undesirable consequences. But desirability considerations are no less trumps in this sense: actions/policies/institutions recommended on the basis of a false perception of desirability are no less likely to have undesirable consequences.

Nevertheless, economists – particularly those most interested in the traditional concerns of political philosophy – have been inclined to assign a kind of priority to matters of feasibility. A medical metaphor to the effect that diagnosis is necessary *before* prescription of treatment is often wheeled in, as if its applicability were self-evident. But that medical metaphor is far from innocent, and it is worth unpacking it a little. In the medical case, there is a presumption that what constitutes 'good health' is self-evident. There is also an implication that false diagnosis will lead to treatments that are likely to do more harm than good. It is by no means obvious that these presumptions carry over to the social case. What is, however, clear is that economists have been attracted to formulations of desirability that are as undemanding as possible. The attraction of the Pareto criterion and of consensus-based norms may well lie partly in this: that no one would, or on pain of self-contradiction could, deny the desirability of a move that she herself preferred. Who, after all, would support a move that made everyone in the

normatively relevant community *worse* off (for that is what refraining from making a Pareto-desirable move involves)? Economists may not be able to get as much out of such a weak normative apparatus as they might out of a richer ethical framework, but what they can get out of it will have strong claims to be compelling. It is clearly an attraction for the economist to avoid being dragged back continually into the niceties of moral philosophy. If some simple, tolerably unexceptionable conception of desirability can be found, the way is clear to focus all the analytic firepower on matters of feasibility, and for the economist to get on with the job.

Feasibility Analysis at Work: Two Extended Examples

In this section, I want to deal with two particular applications of feasibility analysis. These applications are interesting because they show how the conception of desirability itself is constrained by feasibility considerations. The first example deals with the overthrow of utilitarianism as the prevailing paradigm in normative economics, and its replacement by the Paretian framework. The central argument in that overthrowal revolved around the claim that utilitarianism is infeasible because the information necessary to make it operational is unavailable. The argument is not that utilitarianism is *ethically* deficient, but rather that is infeasible.

The second application of feasibility analysis bites at quite a different level, but is in its own way every bit as important. It deals with the issue of human motivation and specifically with the role of morality in motivating action. Economics, following Mandeville and the American 'founding fathers', is deeply sceptical about human moral capacities and grounds its conception of normative social theorizing in that scepticism. It is that scepticism in particular that explains economists' interests in 'invisible hand' mechanisms and the 'incentive effects' implied by particular institutional arrangements. On one reading (in my view a perceptive one) economists are interested, perhaps even preoccupied, with realism about *virtue*: they are concerned, that is, with the *feasibility* of any arrangement that makes too extensive a demand on people's preparedness to behave 'morally'. As I shall argue, this particular feasibility concern deeply influences the economist's view of the world and in particular the economist's view of what prospects for improvement in the world are worth taking seriously. But, first, the economist's attack on utilitarianism.

Is utilitarianism feasible?

It is no secret that utilitarianism has played a special role in the development of economics – and this not merely in its normative strand. From its origins in Hume and Smith through John Stuart Mill up until the 1930s, the overwhelmingly predominant formulation of 'the desirable' in economics was utilitarian in character.

It is also no secret that in the 1930s utilitarianism, at least in its standard form, was more or less decisively overturned in economics, in favour of some variant of the Paretian framework. The critical move in this overthrow was delivered by Lionel Robbins's influential book *The Nature and Significance of Economic Science* (1932). Robbins's book coincided – and was loosely linked – with the ordinalist revolution in

economics more generally and Robbins's arguments doubtless borrowed some authority from those more general ordinalist arguments. His purposes were, however, distinct. Ordinalists of the standard kind were concerned to generalize the mainstream Marshallian formulation of demand analysis, which assumed cardinal measurability of utility by showing that cardinalism was a hypothesis that could be dispensed with. Their object was to show that the full array of propositions in demand theory could be derived merely on the basis of individual preference rankings, without any utility measure attached. Ordinalists of this stripe did not need to argue that cardinal utility measures were *impossible* – merely that they were unnecessary. The application of Occam's razor, on the basis of which ordinalism was justified, would also shave off any argument to the effect that cardinality was strictly *infeasible* because no such argument was logically necessary.

Robbins's object was to show something else – namely, that arguments advanced by Mill, Edgeworth and Pigou on utilitarian foundations in favour of a radical egalitarian income distribution programme depended on 'value judgements' and, further, that these value judgements had no place in 'economic science'. The Mill/Edgeworth/Pigou argument was that, given diminishing marginal utility of income to individuals, and given that individuals' capacities for income enjoyment were identical, maximizing total utility required complete income equalization. Taking a dollar from one who has more dollars and giving it to one who has fewer must impose a utility loss on the first less than the utility gain to the second if marginal utility declines with income. Hence, egalitarian redistribution will add to total utility until all incomes are equalized, unless the process of redistribution itself is costly. Of course, it might be expected that a programme of income equalization would have enormous disincentive effects; individuals would all get average post-tax-transfer income whatever they did, and would be expected to 'free-ride' on each other's effort. Clearly such disincentive effects would weigh in any proper utilitarian calculus. When the relevant calculations are made, the utility-maximizing degree of income redistribution turns out to fall well short of equalization – for plausible values of the relevant parameters, the utility-maximizing redistributive scheme would involve an equal flat grant paid to all persons financed by a 25 per cent income tax (see Stern, 1976; Atkinson and Stiglitz, 1980). Allowing for disincentive effects of equalizing redistributions is, then, one way in which feasibility considerations might work to moderate the extreme requirements of an unconstrained application of ethical norms. However, these disincentive effects were not Robbins's concern. Robbins's line involved a much more wholesale epistemological challenge to the feasibility of the utilitarian programme. How, Robbins asked, could one *know* that transferring a dollar from A to B would make B better off than it made A worse off? In particular, what 'scientific' evidence – what observations of behaviour of the kind economists are inclined to regard as decisive elsewhere – could be adduced in favour of any such proposition? In other words, Robbins was not offering the view that value judgements are unnecessary in drawing normative conclusions; he was arguing rather that the object of maximizing aggregate utility requires information to which we do not and cannot normally have access.

With a small number of exceptions (most notably Little, 1957; and, ingeniously, Lerner, 1944), Robbins's challenge was taken to be unanswerable, and the welfare economics programme of the utilitarians was replaced by the Pareto framework, for

which interpersonal utility comparisons were taken not to be required. Robbins appealed to a contrast between market *exchange*, where both parties could be recognized as better off (at least, in the relevant *expected* sense), and state-managed income transfers, where one party was made better off at the expense of another.

One conspicuous feature of the Robbins argument is its strong behaviourist orientation. Only information about preferences revealed in actual behaviour is to be accepted as authoritative; information gleaned from introspection, discussion, questionnaires, etc. is regarded as hopelessly unreliable or otherwise 'unscientific'. Robbins believed, perhaps, that the latter kind of information, coloured as it would apparently be by interests in redistribution in one's own direction, would be systematically unreliable. There is some connection here with the Austrian critique of 'socialist calculation': a central element in the arguments of Hayek (1975; 1988) and Mises ([1922] 1981) is the radical inaccessibility of information from which the 'optimal' social plan could be devised. Hayek argues that even the individuals themselves cannot articulate their utility functions or their productive capacities independent of the context for action that the marketplace supplies. At least a critical part of the knowledge required to simulate the market via planning he argued to be either inarticulable (Hayek prefers the term 'tacit') or actually unknown by the individuals themselves. It is worth noting that Hayek's critique of socialist calculation is not the 'public choice' one, that socialist planners would not have the *incentive* to establish the optimal plan or workers the incentives to implement their part in that plan. Hayek is prepared for the purposes of the argument to allow all agents to be appropriately motivated. Hayek's point seems to be that even in that case the information required will not be forthcoming and the co-ordination of that information into an appropriate set of rules of conduct for each agent will be impossible. Hayek's argument is that agents need the market system (and its price signals specifically) to discern what the 'public interest' requires. Robbins's arguments and Hayek's deal with rather different questions and pose rather different informational demands (of which more below). But they are of the same general kind: they both pose the challenge as to how the ethical observer is to obtain the information required to make the ethical system *feasible*.

Of course, one might well ask whether, in Robbins's case, the Paretian framework he recommends is really any less informationally demanding than the utilitarian scheme. How, after all, are we to know that a policy makes someone better off and no one worse off? Or whether a policy moves citizens closer to some notional 'frontier' in which all possible mutual gains have been appropriated by citizens? With a few notable exceptions, such questions do not seem to have much worried welfare economists.

The most notable exception is James Buchanan (1962; 1977, for example) together with those influenced by his work. Buchanan's case for the unanimity criterion as the ultimate basis for all normative claims rests in large part on a Robbins-like argument: without the explicit unanimity test, the analyst simply has no adequate grounds for believing that the Pareto criterion has been satisfied. If the utilitarian scheme of Pigou and Edgeworth is informationally infeasible, then so will be those variants of the Paretian framework that cannot be grounded in some 'scientific test'.

At this point, I want to note three things about seeing voluntary exchange in the marketplace as such a test. First, we should note that what is at stake in such a test is the 'revealed preference' tradition in economics – the assertion that whatever is revealed

in action accurately reflects the agent's welfare. This assertion goes with a collapse of categories of taste, preference and value to a single category – that which is revealed in action. If we imagine values to be at war with inclinations (an image that is hardly a novel one in ethics), then the market test carries the assumption that action invariably involves an optimal reconciliation of the competing claims. If that assumption is taken seriously, then agents' actions seem to be exempt from ethical scrutiny: ethics cannot constitute an independent point of evaluation for human action because agents' actions are in accord with their values by assumption. The charge that no one 'should' behave any differently from the way they actually behave surely spells the death of one important strand of ethics. Equally, if ethics is to have a voice, something other than mere observation of behaviour must be available as a source of information: some access to the human mind via what the agent *says* (or otherwise) must be presumed.

The second thing we should note about the market test involves foreshadowing arguments that I will discuss later about 'market failure'. Market failure deals with those cases in which the pursuit of their own values by all agents leads each to fail to achieve her maximal feasible value. The circumstances under which this may occur will preoccupy us later, but (in one form or another) such circumstances have been the focus of welfare economics for the entire history of the subject. One thing can, however, be noted – that the market test itself cannot tell us whether or not such circumstances apply. And yet that question is the critical one for almost all normative economics. (Buchanan's claim is that only the explicit unanimity test can tell us whether such circumstances apply. On this reading, the market test is appropriate only if there is prior unanimous agreement in favour of the market as the appropriate institutional arrangement: otherwise, the market test is arbitrary.)

None of this is to deny that agent behaviour provides some information about agent values: it is simply to deny that behaviour is the sole source of such information. In fact, although few economists seem to have accepted the implication, Robbins's claims about the epistemological arbitrariness of interpersonal comparisons seem to lead to an extreme ethical nihilism.

One notable demonstration of this nihilism, at least on my interpretation, lies in Kenneth Arrow's famous impossibility theorem (Arrow, 1951). There is an enormous literature on this theorem (and variants of it) in both economics and philosophy, and I shall not attempt to survey that literature here. Rather, I will offer a statement of the theorem and my own interpretation. Arrow's theorem asserts that there is no way, in general, in which an ordering of social states can be derived from the individual orderings of those states without violating some apparently simple and unexceptional norms. Specifically, given that the individual orderings are themselves unconstrained, there exists no social ordering that exhibits all of the following properties:

1 Pareto dominance: If at least one person prefers x to y and no one prefers y to x, then the social ordering will rank x above y.
2 Transitivity: If the social ordering ranks x above y, and y above z, it must rank x above z.
3 Independence of irrelevant alternatives: The social ranking between x and y is unaffected by the introduction of any third option w.

4 Non-dictatorship: There is no individual whose preferences match the social ordering (i.e. if 'society' ranks y if and only if some individual i does, then i is a dictator in Arrow's sense; and Arrow requires that no such i exists).

Strategic restrictions on the individual orderings (the inputs to the social ranking) can be devised so that Arrow's result can be avoided; but 'in general', the theorem assures us, no 'decent' social ordering can be derived (with decency defined by reference to the specified criteria).

One way of interpreting Arrow's theorem (the way I prefer) is to conceive it as showing that, in general, in order to make any reasonable sense of the notion of the 'public interest' or 'community welfare' one requires interpersonal utility comparisons. In all those cases where the individual rankings differ, there is no way of generating a composite ranking that is transitive, non-dictatorial and Paretian other than by appeal to a cardinal weighting of the different preferences, and some form of aggregation (which violates the independence of irrelevant alternatives axiom).

It is, I believe, a mistake to see the Arrow theorem as a proposition about the potential for intransitivity in electoral decision making specifically (and hence a theorem about majoritarian cycling in public choice, about which more below, pp. 143–4). It is a mistake to see the Arrow theorem in this way because although democratic politics confronts the problem of aggregating individual preferences into a 'social ordering' in the absence of a numeraire, there are institutional possibilities that might prevent intransitivities emerging (see Hammond and Miller, 1987, for example), as well as the possibility that voters may vote stochastically in ways that would suppress majoritarian instability (Coughlin, 1982). The problem is not that of securing an electoral equilibrium; it is rather one of securing an equilibrium for which a plausible ethical defence can be made. Arrow's theorem assures us that this latter task cannot be performed without interpersonal utility comparisons.

It is an interesting fact that, although moral philosophers have offered a variety of arguments against utilitarianism (of varying degrees of persuasiveness), the line that has proven decisive within economics is a distinctively economistic one. The economist's line has been that utilitarianism is *infeasible* because it requires information that is inaccessible. As I have emphasized here, if one accepts that view, one may well be committed to a great deal more in the way of ethical nihilism than economists have seemed to realize. But my interest here has been as much on the nature of the argument as its substance. The argument is an *economist's* argument in that it attempts to bring feasibility considerations to bear in the exercise of specifying 'the desirable'. My claim is that, in the economist's world, feasibility is the central test. The overthrow of utilitarianism within economics in the 1930s is a classic instance of the application of that test.

Realism about virtue

One particular dimension of feasibility that has played a critical role in the development of normative economics (and in Enlightenment social theory more generally) revolves around human moral imperfections. Virtually any social analysis entails some account of human nature: and in normative social analysis, it is perhaps natural to suppose that

a moral theory will, if correct, prove compelling to the agents who accept its correctness. But within the economist's scheme, establishing what it is that virtue (or justice or whatever) *requires* by way of action (or social policy or whatever) is not enough: it is also necessary to show how agents will be induced to *take* the relevant action. Compliance with a morality, even one that agents regard as 'true', simply cannot be taken for granted. 'If men were angels', the economist is inclined to argue, things might be different; but in the real world we must determinedly set aside heroic conceptions of human nature and deal with human behaviour as it is, warts and all. To do so commits the economist to a particular interest in institutions, which, as economists often put it, 'economize' on virtue (see Robertson, 1956; and for a critical view, Hirschman, 1985).

The predominant model of human behaviour in economics is the *Homo economicus* model. This conception of human nature involves, in most applications, two assumptions – that people are 'rational' (that their actions are those that, given their beliefs, best fulfil their desires) and that they are predominantly egoistic (that their desires are oriented towards themselves as subject). Exactly what these assumptions amount to in particular cases is a somewhat complicated matter which need not be engaged here. Different applications will focus on the rationality and egoistic aspects, and for some purposes the assumptions can be weakened considerably. In particular, to make 'economizing on virtue' a relevant ambition, all that is necessary is the assumption that actors will often enough *not* act in the public interest. To make the economist's remedies to this problem relevant, all that is necessary is the assumption that private interest is a significant motive in human action.

Both assumptions are, economists believe, unexceptionable. Attention is therefore directed towards the question of how arrangements might be made to bend private interests to the service of the public interest – to secure benign consequences from human interactions, despite the impaired motivations of the participants. Clearly, the archetypal example is Adam Smith's 'invisible hand'; the fact that we do not depend on the benevolence of our butchers and bakers to secure our dinner has been for economists the notable feature of the free-market order. It is that feature that enables us to economize on (scarce) benevolence. But invisible hand mechanisms are not necessarily restricted to market interactions. The quest for analogous mechanisms in the political arena was, for example, the driving ambition of the framers of the American Constitution, and indeed of political theorists in the Enlightenment tradition down to the present day. Bolingbroke (1730) believed that 'governments may be so formed, or laws so framed, as will necessarily produce virtue and make good ministers even of bad men'. Hamilton (1788) argued that 'the best security for the fidelity of mankind is to make their interest coincide with their duty'; more generally, the object of the institutions discussed in the *Federalist Papers* was to ensure that, as far as possible, interest and duty do coincide.

The 'virtue–parsimony' characteristic of this tradition is, at least these days, pretty much a distinctive economistic contribution. Within mainstream economics, the notion is formalized within the so-called 'principal–agent' literature. A general characterization of principal–agent problems would involve a 'principal', who specifies some goal, to be implemented by some 'agent', who is strategically placed to secure that goal but who has independent ends which he seeks to pursue. The divergence between the

objectives of principal and agent is clearly critical to the problem: if the agent fully internalizes the principal's goal, then the problem is simply assumed away. The challenge for the principal is to design arrangements that will provide the agent with incentives to use his (the agent's) strategic superiority in the principal's interest. In conventional economic settings, such problems are conceptualized 'in the small': for example, what commission arrangements will maximally induce the real estate agent, with her special knowledge and skills, to secure the best price for your house when her interests lie more in securing a quick sale at little effort (or perhaps selling to herself through an intermediary)? However, the principal–agent *approach* is clearly generalizable to a larger scope: let the principal's object be the achievement of some general moral end, and let the agent(s) be those whose actions are to produce that moral end; then the same general principal–agent apparatus can be directly applied. Thus, a central problem in politics is to ensure that those entrusted with political power will indeed reliably use that power in the interests of citizens. Specifically, the central problem for democracy is whether, and to what extent, the institutions of democracy – periodic elections under conditions of majority rule, most notably – serve so to constrain the use of political power that the public interest is served. Examination of that problem represents the main agenda of normative public choice theory. The presumptions underlying this formulation are precisely those of the principal–agent problem – viz. that principals (citizens) have interests, with whose pursuit political agents are entrusted; and that those political agents have independent interests that are, at the relevant margin, in conflict with those of citizens. The central analytical question then becomes whether the institutions of democracy represent a solution to the principal–agent problem so formulated.

It is worth emphasizing that this formulation of the central issue in normative political theory presupposes that the normative ends to be served are connected to the preferences/interests/values of the citizens. 'Virtue' on the part of political agents collapses more or less to a disciplined benevolence – the capacity to recognize the citizens' interest and the inclination to act accordingly. Conceptions of the 'good', independent of the citizens' interests, that might be held by political agents (or their philosopher advisers) can have no special place here; indeed, such conceptions are simply one possible manifestation of agents' particularized 'interests'. Within the principal–agent formulation, politics is assigned an *agency* role; normative considerations are exhausted by the question of how well political institutions fulfil that role.

Aspects of the argument here can usefully be elaborated by appeal to the prisoners' dilemma interaction. The prisoners' dilemma is in fact a central concept of normative economics: it is the economist's version of the fallacy of composition and it will reappear in the subsequent discussion of the economist's theory of the state. The original version of the prisoners' dilemma (attributed to A. W. Tucker) involves two suspects who are believed to have co-operated in a particular crime. They are captured, and the prosecutor places them in separate cells, and confronts both with the following set of 'pay-offs':

- If both confess, they get eight years each.
- If neither confesses, they get one year each on a minor charge.
- If one confesses and the other does not, the confessor goes free and the non-confessor gets ten years.

		Prisoner II	
		Confess	Don't confess
Prisoner I	Confess	8 yrs, 8 yrs	free, 10 yrs
	Don't confess	10 yrs, free	1 yr, 1 yr

Figure 5.1 The prisoners' dilemma

The question facing each prisoner is whether to confess or not. The structure of the interaction here can be illustrated by a standard matrix in which the entries in each cell of the matrix are a number pair showing the number of prison-years prisoner I receives as the first number in each pair and the number of prison-years prisoner II receives as the second. This matrix is shown as Figure 5.1. Prisoner I chooses the row, prisoner II the column.

The critical feature of the prisoners' dilemma interaction is that, while the prison-minimizing outcome for the two prisoners considered together is for both *not* to confess, each will be led to confess if each acts independently to minimize his own prison sentence. To see this, consider prisoner I's calculus. There are two contingencies that prisoner I can reckon with: prisoner II confesses; or prisoner II does not confess. Whichever contingency applies, it minimizes I's own sentence to confess; for if II also confesses, I gets eight years for confessing and ten years for not, and if II does not confess, I gets off free for confessing and one year if he does not. So whatever II does, it is best for I to confess. And whatever I does, it is best for II to confess. Individually rational action involves each likewise in confessing, even though the outcome in which both confess is worse for both than the outcome in which neither confesses. The 'equilibrium' outcome (both confess) is Pareto-dominated by another outcome (neither confesses).

Now, in the particular example offered by Tucker, the prosecutor is presumed to know, independently, that the prisoners are guilty and so the (confess, confess) outcome is morally defensible. The prosecutor engages in a piece of 'institutional design', in which an unambiguously desirable outcome is secured by a strategic manipulation of the context within which the prisoners choose. But of course, the prisoners are led to confess whether they are guilty or not. And one might equally well take it that the prisoners are innocent and the prosecutor either mistaken or simply anxious to increase his convictions score for the month. The intrusion of the prosecutor's motives are, in fact, a distraction from what is surely the point of the story – namely, that the prisoners are led under independent action to choose an outcome that both would prefer not to prevail. If we conceive of the public interest solely in terms of the interests of the participants (the prisoners in this case), then the problem exposed by the prisoners' dilemma is the tension between private and public interest. Clearly, an appropriate degree of benevolence or 'public spiritedness' by the participants would remove that tension: if each prisoner weighs the cost imposed on the other by his own confession sufficiently heavily, he will not confess. Here, then, we *require* virtue: in its absence, the jointly preferred outcome does not prevail.

		Player B	
		b_1	b_2
Player A	a_1	0,0	2,1
	a_2	1,2	3,3

Figure 5.2 Invisible hand

Recall, however, that the dilemma is to some extent an artefact of the district attorney's ambitions (moral or otherwise). And just as the prisoners' dilemma is in this case artificially constructed, so perhaps it may be *avoided* by strategic design of the rules of interaction. For example, it is often argued by economists, following G. Hardin (1968), that the English common constituted a prisoners' dilemma interaction in that each villager had an incentive to over-graze; and that the dilemma could be solved by creating private title in the land. Private ownership in this case economizes on virtue, and is therefore to be preferred.

(There is now a vast literature on the prisoners' dilemma, both in its two-person and n-person forms, and both in one-off and iterated plays. An accessible treatment is Luce and Raiffa (1957, ch. 5) which, despite its age, remains remarkably modern and vigorous. Martin Shubik (1982) provides a more recent survey of attempts to apply simple game theory to social contexts. At a less technical and much more inductive level, the various applications by Schelling (1960; 1978) make fascinating and instructive reading.)

The invisible hand mechanism can also be illustrated by a two-person interaction, with an analogous matrix depiction, shown as Figure 5.2. In this interaction, each actor again has two actions, denoted a_1 and a_2 for player A and b_1 and b_2 for player B. The pay-off associated with each 'outcome' is again shown as a number pair, with the first entry showing the pay-off to A and the second entry showing the pay-off to B. Clearly, (a_2, b_2) is the equilibrium outcome involving the pay-off (3, 3). This equilibrium is, however, utterly benign, unlike the prisoners' dilemma case. Moreover, this interaction has the feature that the action of each player serves as much to promote the interests of the other as to promote his own. The invisible hand economizes virtue/benevolence/public spirit in this simple sense. And again, to the extent that institutional arrangements can be so ordered that the interactions between agents are of the 'invisible hand' type, they should be. Everyone has an interest in promoting institutional arrangements of this kind – whether by acting to preserve them when they spontaneously evolve, or by establishing them where they can be established.

A sense of such institutional possibilities – of so ordering social life that invisible hands are encouraged and prisoners' dilemmas suppressed – colours the economist's approach to normative social theory. Indeed, on one reading (say, Buchanan, 1977), this is precisely the normative agenda. And it is worth noting what is presupposed by this conception of normative social theory – namely, that the limits to human benevolence, to civic virtue, are a fundamental constraint in the pursuit of normatively

desirable ends. Moral reasoning on its own can never be taken to be compelling for action: any normative social theory that simply assumes compliance is therefore seriously incomplete at best and at worst can encourage action that is perverse in its consequences. Misspecifying the constraint of human moral frailty is no less an error than misspecifying other kinds of constraints, but it is an error to which economists see traditional political theory as particularly prone.

The Economist's Theory of the State

The economist's theory of the state (ETS henceforth) has attempted to engage two questions: what should the state do? and on what scale? In answering these questions, economists have isolated three aspects of government activity. In the spirit of Buchanan's (1975a) typology, we can distinguish:

- the 'protective state' under which the government provides the basic infrastructure for market interaction – the specification of personal and property rights and procedures for the enforcement of those rights, and of procedures for their exchange;
- the 'productive state' whereby government expressly interferes with the outcomes that emerge under market interactions in order to meet preferences for goods and services that the market would provide in inadequate quantities;
- the 'distributive state' under which the government makes transfers between individuals to 'correct' for perceived inadequacies in the distribution that emerges from the market.

Attempts have been made to accommodate all three of these separate functions under a common rationale. The thought is that, once the rationale for government provision of certain goods and services under the 'productive state' is established, those same arguments might explain why the state is needed both for the definition and enforcement of rights and for the redistribution of the benefits from market activity among citizens. In any event, as a matter of intellectual history, the theory of the productive state came first. And we shall discuss it first. We shall then see how far the analytical tools there developed might be turned to use in the other two contexts.

The productive state: public goods and market failure

Mainstream neoclassical welfare economics has at its core a set of claims about the capacity of perfectly competitive markets to generate a Pareto optimal outcome – an outcome, that is, in which all possible mutual benefits from exchange are fully appropriated. In the face of such claims, what argument for interference in the competitive market outcome could there be (redistributive arguments, to be sure, but these we are setting aside for explicit treatment later)? Unless it could be shown that the standard welfare economics results were wrong, or less than completely general, no case for a productive state could be mounted – or at least could not be mounted without a wholesale attack on the preference satisfaction as a normative ideal.

It was in this spirit that Paul Samuelson in a series of now classic papers (Samuelson, 1954; 1955) launched his 'theory of public goods' as the basis for a rationale for the productive state. Borrowing from earlier writings of Wicksell (1896) and Lindahl (1919) and an early paper of Musgrave's (1939), the theory of public goods was an attempt to provide a systematic account of 'market failure'. The theory had three strands:

- defining 'public goods';
- deriving the conditions under which the supply of public goods would be Pareto optimal;
- demonstrating that these conditions were not achievable under competitive market conditions.

Here, it will be helpful to give a sketch of the argument shorn of the technical detail.

Public goods were defined as goods (and services) that all members of society consume (or could consume) in common, in such a way that the consumption level of each is *equal* to total production. Examples like an outdoor circus or lighthouse services or deterring attack from potential enemies are traditionally cited. For public goods, additional output for me is automatically made available for consumption by you and equally for all others in the relevant group. Private goods, by contrast, are such that all individuals compete for consumption of any production unit: if I consume x units of the good, there are x units fewer available for consumption by others. Private goods are things like oranges and haircuts and houses and clothing: total consumption is equal to total production. For public goods, total consumption is *n* times total production, where *n* is the relevant population.

So much for definitions. Pareto optimality in the supply of a public good has two features. First, all individuals who might have access to the public good should do so. Since it is costless to admit an additional user if one is excluded, it cannot be fully optimal to exclude anyone who derives positive benefit from consuming marginal units. Second, because public goods are consumed by all, the aggregate benefit of an additional unit produced is the sum of the values placed on that marginal unit by all the consumers. Consequently, it will maximize preference satisfaction to produce public goods up to the point where the sum of the values placed on the marginal unit across all those consumers is equal to marginal cost. The contrast here is with private goods, where the maximum-preference-satisfaction condition is that marginal cost equals the value placed on the good by the highest value user.

The public goods conditions are, however, inconsistent with market equilibrium under autonomous decentralized choice processes. Each individual will rationally purchase an additional unit of the public good only if the value of that unit to her is at least equal to its cost. It will not be rational for me to contribute a dollar to the cost of providing the public good if the value I place on an additional unit is less than a dollar.

Ergo, individuals will not voluntarily contribute at the optimal level. Put another way, if by some chance we happened to be producing the public good at a level where aggregate benefit accruing from the marginal unit across all users equalled the cost of that marginal unit, every contributor could expect to gain by reducing his own

contribution. Public goods contributions are vulnerable to an n-person prisoners' dilemma problem, in which at least in the neighbourhood of the Pareto optimum, 'don't contribute' is the rational strategy.

It is worth emphasizing that Samuelson's concept of public goods embodies two features that are conceptually distinct and can arise separately, both of which pose problems for the market – though of a somewhat different kind. The two features are: 'non-excludability'; and 'non-rivalness' in consumption. Non-rivalness means that everyone *can* be a consumer. Non-excludability means that one cannot exclude anyone who does not pay from consuming the good in question. So, for example, a theatrical performance exhibits non-rivalness up to the theatre's capacity limits: a higher-quality performance for you is a higher-quality one for everyone in the theatre. But the theatrical performance is certainly price-excludable. That is, it is perfectly feasible to charge a price of entry and refuse admittance to any who do not pay the entry price. To be sure, while there are empty seats, it would increase preference satisfaction to admit any individuals who would be prepared to pay anything at all to be admitted. And it is on this basis that Samuelson was inclined to consider the non-rivalness property the more basic. But in the special case where all individuals have the same demand, a market price equal to 1/nth of marginal cost could be charged, all would attend and total efficiency would be achieved. The degree of market failure in the non-rivalness case then becomes a matter of the extent of *differences* in demand for the good in question. Of course, some individuals might pretend that their demand was lower, and fail to attend, in order to secure a lower price. The possibilities of such dissembling have been of some interest in the literature – but pricing of theatre tickets does not suggest that it creates significant problems in practice.

For this reason, most commentators have identified the 'non-excludability property' as being the more important source of market failure. If no one can be excluded from whatever units are produced then everyone will have an incentive to 'free-ride' over the range in the neighbourhood of optimality. And this will be so whether there are non-rivalness properties or not. So, for example, the famous case of the 'tragedy of the commons' (G. Hardin,1968) is an instance where non-excludability arises with goods that are rival in consumption. If no one can be excluded from the use of the common, then all will tend to graze their cattle until the grass is eaten out. Grass is an entirely rival good; the problem is one of not being able to charge for it. (In practice, common property resource use is often governed by the application of norms and rules that are enforced by social mechanisms of some sort; see Ostrom,1990.)

Samuelson's public goods concept embodies then, in an extreme form, two properties each of which may pose difficulties for the operation of markets. In the non-rivalness case, failure arises because consumers who would be prepared to pay something are likely to be excluded in market equilibrium (Oakland, 1974). In the non-excludability case, failure occurs because no one will have the necessary incentive to pay whatever price is charged: the market will basically collapse.

Of course, economists, well before this time, had had a catalogue of cases where policy intervention of various sorts was seen to be justified. The literature on externalities, for example, is at least as old as Pigou (1920) and the notion of free-riding had been developed by Hume (1751). Adam Smith had a well-developed list of activities that it would pay the 'wise sovereign' to provide for citizens. In this sense, Samuelson

did not so much '*invent*' market failure as systematize it and provide a theoretically compelling account of just why markets would fail in certain settings. A lively literature ensued attempting to show how familiar cases of externalities were indeed less extreme forms of 'publicness' (sometimes heavily disguised). Refinements on Samuelson's conceptual array followed. Among the more important of these were:

- Transactions costs, indicating the costs not just of excluding individuals from consumption but, more generally, of writing and/or enforcing contracts. Coase's (1960) famous use of this concept spawned an entire jurisprudential tradition in the form of the law-and-economics movement.
- Network externalities (Katz and Shapiro, 1985), exemplified by the telephone case in which the value to each user depends positively on the number of other users. The concept is often applied to software markets.
- Distinctions between marginal and non-marginal externalities and Pareto-irrelevant ones (Buchanan and Stubblebine, 1962).
- The analysis of partial non-rivalness under the rubric of 'the economic theory of clubs' (Buchanan, 1962; Cornes and Sandler, 1986).

As we move from the polar public good case, to less extreme forms of market failure attributable to externalities, 'club goods' and the like, two issues arise. First, how can we be sure that we have identified a case in which externalities are present? And second, just how big does the market failure have to be in order to justify public policy intervention? Let us consider these questions briefly in turn.

In the extreme 'public goods case', the problem of identification does not seem to be all that difficult – the properties of public goods are largely technical. Of course, assumptions about the content of individuals' preferences have to be made, but the information required is of a kind that is likely to be common knowledge. For example, in assessing whether drug research is a public good or not, the assumption that people prefer more effective to less effective drugs passes without notice. But in lots of other cases – some of which are the object of considerable policy intervention by many governments – whether individuals have an effective demand for others' consumption or production of particular goods is far from obvious. For example, in the case of higher education, it is not obvious that the individual who emerges with the relevant degree does not appropriate almost all the benefits of her education – yet the university systems in many countries are characterized by significant public intervention. On the other hand, perhaps others do benefit in some way from the graduate's success. The point is that one cannot tell just from an examination of individual behaviour. If the presence of externalities is to operate as a test for whether public intervention might be justified or not, quite detailed information about individual preferences will often be required. And no less often, such information will not be easy to come by, precisely because market failure implies that the relevant demands are not revealed in individual behaviour. The Robbins critique of utilitarianism is clearly relevant here. Of course, demands may be thought to be 'revealed' in political contexts: the fact that voters vote for higher education subsidies may be thought to settle the question. But the status of those political 'demands' is not self-evident. And in any event, it can be no independent normative test of policy to observe simply that it *is* policy!

Assessment of the normative qualities of overall political process is also central to the second question – that of what 'policy intervention' can reasonably be expected to achieve. Such an assessment is what 'public choice theory' seeks to provide and we shall shortly turn directly to consider that theory. What we can say as a preliminary proposition is that markets have a *comparative* advantage (not necessarily an absolute one) in the provision of goods where publicness attributes are least marked. Equally, the case for public policy intervention is greatest where externality and non-rivalness problems appear to be most substantial. Accordingly, the identification of significant externality/publicness attributes is a crucial first step in any argument for public policy within the standard economics framework. It is not, however, the *last* step – a point on which public choice scholarship has always insisted.

The constrained state – the 'public choice' challenge

Any normative theory of the state should attempt to answer questions about what government should do. And it is natural, perhaps, that any deficiency observed in the social order should be an occasion for the remark that 'government should do something about it'. But this line is to cast government as *deus ex machina* in normative argument – and neither the *deus* nor the *ex machina* elements sit comfortably with the economic approach. As public choice theorists have continuously argued, the public goods account of the role of government makes appeal to a 'benevolent despot' model of government that is hopelessly at odds with assumptions made elsewhere in economics about human motivations and social institutions.

In the first place, if it *were* appropriate to assume that government could be treated as a single decision-making agent, then that agent ought to be assumed to be motivated in exactly the same way as all other agents: that is, to have purposes and interests of his own and in particular purposes distinct from and independent of those of (other) citizens. But, in the second place, government (even autocracy) cannot be plausibly modelled as a single independent decision maker. There are always constraints – threat of coup or popular uprising, people to be bought off, etc. – that require that some account be taken of others' interests. And, of course, in democratic settings, what stands for government is the whole network of political institutions. Given that conception of 'government' as *political process*, the idea of those political processes *directly* choosing a social outcome according to some independent ethical norm appears as an absurdity. The relevant question is rather whether democratic institutions offer a solution to the principal–agent problem – whether democratic political process has 'invisible hand' properties analogous to those of the idealized market, which might reliably produce public goods in roughly optimal quantities. For if *not*, then market failure is not sufficient grounds for state action – politics cannot be expected not to 'fail' also. Pareto optimality in public goods supply is not only infeasible through markets, it may be infeasible *simpliciter*.

The investigation of possible 'invisible hand' properties of democratic political process is the central item on the agenda of normative public choice scholarship (sometimes called 'constitutional political economy'). Because the major issue in this investigation is the comparison of political processes with idealized markets, it is natural that public choice economists should seek to appraise political processes using the same analytical

techniques, the same assumptions about human motivation, the same general intellectual apparatus as they use in the analysis of markets. To do otherwise is to run the risk of introducing bias into the politics/market comparison. Accordingly, while some scholars may be attracted to public choice analysis because it offers a theoretical structure to political science, or because it offers a set of predictions about behaviour that seems to have worked tolerably well in other settings, or because they happen to believe that the basic premisses of economics are TRUE, 'constitutional political economists' are attracted to public choice analysis for *methodological* reasons. The analyst makes identical behavioural assumptions and exposes institutions to the same normative tests because that is what proper comparative institutional analysis requires.

Given the intellectual history as I have outlined it, public choice scholarship has naturally focused on the question of what the proper domain of the productive state should be. This question, although a central one for political philosophy, certainly does not exhaust political philosophers' concerns. Nevertheless, the economist would insist that feasibility questions are central to any of those wider concerns: a purely descriptive understanding of the workings of political processes must underpin any authoritative normative claims. And what the modern economist would accept as a suitable 'descriptive understanding' will include extensive reliance on formal deductive models, producing hypotheses that the data do not decisively reject.

Predictably, public choice economists have concentrated on those pieces of political apparatus that seem most significant in constraining the behaviour of political agents. And within democratic contexts, the primary such piece is electoral competition. As public choice scholars see it, the requirement that candidates/parties and the policies they stand for must submit to periodic popular elections is the primary mechanism (and perhaps ultimately the only one) ensuring that those candidates/parties have a derived interest in the interests of citizens. To the economist's eye, all other possible pieces of democratic apparatus – freedom of the press; bicameralist legislatures; even the separation of powers, or the rule of law – are either of second-order significance or parasitic upon electoral constraints. In this sense at least, public choice economists are democrats to the core. That is, the presence of electoral constraints, with full freedom of entry into electoral races, is a characteristic feature of democracy – and without those constraints, the likelihood that citizens' interests would figure in the conduct of politics is seen to be minimal. Hence, although public choice scholarship has been critical of democratic political process in terms of its capacity to achieve Pareto optimality, and critical of democratic politics *vis-à-vis* the marketplace in those cases where goods are 'private', democracy is nevertheless seen to be the best form of political organization – or at least democracy will be best to the extent that electoral 'constraints' *do* constrain. And it is that question – the constraining properties of electoral competition in ensuring outcomes in accord with those that citizens want – that has been the main item on the public choice agenda.

It is not possible here to give much more than a sketch of the central results that emerge from that agenda. But not much more than a sketch is necessary (see Mueller, 2003, for an extensive treatment). The natural point of departure is the so-called median voter theorem – the proposition that, provided voters' ideal political positions can be laid out along a single spectrum, electoral competition between two parties will ensure an outcome at or close to the median position of that spectrum (i.e. the 'ideal'

of the median voter). The force of the proposition can be seen by supposing that a party/candidate were to locate somewhere else: such a candidate could always be beaten by a rival who locates closer to the median, provided that all voters vote for outcomes closer to their ideal (an assumption that sits comfortably with standard preference theory). Take the public goods case specifically, and suppose that the tax system is such that each voter can recognize the (marginal) cost in private goods forgone of an additional dollar of public goods spending. Then, assuming that each voter reliably votes for the party/candidate who offers a level of public goods 'closer' to her ideal, electoral competition will push candidates/parties towards the ideal of the median voter. (I say 'push towards' because parties may not know voters' preferences, or they may be constrained by pre-selection requirements or other considerations.) The result here is a direct application of spatial competition models, originally addressed (by Hotelling, 1929) to the issue of firms locating along a road. The normative implications of this model are encouraging for democracy. Although full optimality will be achieved only in special circumstances, the level of public goods supply generated will be, in general, not too far from the optimal level (as specified by the Samuelsonian conditions). Of course, the median outcome takes no account of different individuals' intensity of preference: for example, every voter bar one (the median) could reduce her demand for the public good and there would be no response in the political outcome, provided that the median *ex ante* remained the median *ex post*. This observation is sufficient to sustain the conclusion that the median voter outcome is not in general Pareto optimal: optimality would require that the outcome respond to changes in any one citizen's demand, other things being equal.

Within that median voter model, electoral competition constrains the behaviour of politicians completely; political candidates/parties become mere ciphers for the median voter. One can, of course, loosen the bounds of electoral constraints (for example, by allowing uncertainty about the median voter's location along the policy dimension, or by assigning major parties some natural advantage over new entrants in the electoral stakes) but in this simple model, policies *are* pretty much constrained by citizen preferences over them: one can have tolerable confidence in political processes, provided the median voter result obtains (Downs, 1957, provides the classic early treatment).

However, the public choice literature reveals just how fragile that median voter result is. For example, once we move from a one-dimensional issue space to a two- or higher dimensional one, the median voter rule collapses into a chaos of perpetual instability. The reason for this is clear. In the single dimension case, the scope for construction of a majority is severely limited: in particular, there is no possible coalition involving the extremes that could defeat a centrist policy. In the two-dimensional case, there is no such restriction, in general. The high demanders of one public good (defence, say) can form a coalition with the high demanders of another (welfare spending, say) or with the low demanders of welfare spending – and equally, the low demanders of defence can bid to form competitive coalitions. The two- (and higher) dimensional case is analogous to the problem of dividing up a fixed amount of money among n-voters; there is clearly no way of dividing 100 dollars among three persons in such a way that there is no other division that will not leave two of those persons better off. The general theorem here is McKelvey's (1976): that, in general, there exists a path of majority-approved moves (pair-wise comparisons) which will lead from any starting point in

policy space to any finishing point. Strictly speaking, there is no majority equilibrium. And, more to the point, there is no position in policy space that cannot be ruled out under majority rule, however little it accords with what citizens want. McKelvey interprets the result as implying that a strategic agenda setter can always secure the outcome she herself wants. In that sense, majority rule does not ultimately constrain political agents at all: as a solution to the principal–agent problem, democratic processes (and electoral competition specifically) fail.

The restrictions on individual preferences required to avoid this problem of majoritarian instability seem on their face to be so severe that any optimism attaching to democratic process (whether grounded in the median voter theorem or elsewhere) seems illusory. The issue space is almost necessarily n-dimensional, for once governments have the power to redistribute (whether directly through taxes and transfers or indirectly via regulations, tariff protection, production subsidies and the like), the general indeterminacy of dividing the cake so that a majority approves instantly appears. All that is required for this instability result is the apparently innocuous assumption that voters vote for whatever makes them better off.

Public choice theorists have, then, generally seen the central problem of democratic politics to be that of majoritarian instability – not because stability is an end in itself but because the instability knows no logical bounds. We seem to confront either a random walk through policy space in which no policy, however bad, can be excluded, or a stable outcome that reflects the preferences of the strategic agenda setter. Or at least we would do so unless some further institutional apparatus can be set in place that would limit the prospects for such instability. Various possibilities have been discussed in this connection – presidential veto (Hammond and Miller, 1987); bicameralism (Hammond and Miller, 1987; Brennan and Hamlin, 1992); the Congressional committee system (Shepsle and Weingast, 1981), and so on. In all such cases, however, the analysis is predicated on a particular diagnosis of 'the problem of democracy': in all cases, the aim is to suppress natural majoritarian instability in such a manner that the cure is not worse than the disease.

Brennan and Lomasky (1992) have argued that this diagnosis of 'the problem' is itself somewhat defective. Certainly those whose interpretations of democratic process are not informed by public choice analysis have difficulty in identifying the kinds of radical instability in policy outcomes that public choice theory implies ought to characterize the world we observe. If anything, we seem rather to confront a policy inertia – enormous reluctance to depart from existing policy arrangements except via marginal adjustments. Some significant changes are, of course, occasionally observed but they are rarely reversed in short order or followed by a set of other changes in some very different direction. Moreover, any claim that politicians are not significantly constrained by electoral considerations seems to be belied by the extraordinary attention those politicians pay to the media and the opinion polls.

The Brennan–Lomasky thesis is that majoritarian cycling is not the salient problem that public choice orthodoxy makes out because voters do not systematically vote for outcomes that leave them better off. Voting is, on our view, more like cheering at a football match than like choosing an asset portfolio, because in voting the 'expression of preference' by any individual voter is crucially divorced from the electoral outcome. The one-to-one connection between action and outcome characteristic of individual

choice in market settings and on which the 'revealed preference' logic of consumer theory depends is absent in the electoral context. One implication is that ethical and ideological factors are likely to play a disproportionately large role in politics: the cost to voters of expressing ethical or ideological convictions is almost negligible compared with that cost in arenas like the marketplace, where the chooser is decisive. The individual's reasons for acting according to the dictates of 'interest' (however exactly interests are defined) are virtually absent at the ballot box. Accordingly, in the simple 'divide-the-cake' example, individuals are much more likely to be led by affective considerations (such as the claims of justice) than by their own particular pay-off: the expected difference to a voter of a personal pay-off of, say, $10,000 and a personal pay-off of zero is almost certainly only a matter of a few cents, once that voter takes account of the likelihood that his vote will exercise an influence on the outcome.

If, however, this 'veil of insignificance' afflicting the individual voter is likely to suppress majoritarian instability and cycling problems, the absence of a connection between votes and interests must be an occasion for anxiety of a different kind. Specifically, there is nothing in the logic of voter choice to prevent the electoral process from securing electoral outcomes that *no* voter would choose if decisive. Voters may vote according to ethical or ideological convictions – but they may equally vote according to candidates' looks or party loyalty or whim or from hatred of the 'other side' or a whole host of other factors that have little connection with the public interest, almost however the 'public interest' is conceived. Political representatives might be constrained by electoral considerations, but those electoral considerations bear no necessary connection to community or majority interests. The simple median voter model might, for example, be applicable in a wide range of cases, but the normative implications of that model are utterly ambiguous unless the median voter (and other voters) reliably vote their interests, or more heroically their conceptions of the public good.

The general message of all this is an appropriately dismal one. Pareto optimality (and for that matter distributive equity) is feasible neither through decentralized market institutions, because of public goods problems arising in a significant range of cases, nor via centralized collective action. Political arrangements are prone both to majoritarian instability problems and to problems of electoral perversity. In the latter case, there is much scope for the intrusion of moral argument in political process itself – but the kinds of morality that are likely to dominate are those of the demagogue, those that will induce voters to cheer, rather than those associated with the philosophical temperament. On this reading, 'morality' plays a positive rather than normative role: only that moral reasoning that is politically effective will be analytically relevant – not the morality that is compelling in the quieter setting of the political philosophy seminar.

In the specific public goods case, it must remain a somewhat open question as to whether 'state intervention' in the market is desirable or not. The market failure literature surely indicates that the argument for state intervention is strongest for pure public goods, but whether that argument is strong enough must be a matter for conjecture. Moreover, here as elsewhere, feasibility considerations bite. For if decisions on the domain of state activity are taken as a matter of in-period politics itself, then those decisions too are to be analysed by appeal to a descriptive rather than purely prescriptive model of politics. In the Brennan–Lomasky 'expressive voting' model, for example, the domain of public activity will tend to be decided according to whether voters find

an activity 'cheerable' or not rather than because of the non-rivalness and non-excludability properties of the good in question. Many voters may of course 'cheer' much of the time for what they perceive as the 'public interest', and if prevailing conceptions of the public interest are informed by market failure theory then the argument that the public sector should provide 'public goods' will predictably exercise some influence. This possibility, however, hardly represents a robust rehabilitation of welfare economics as positive politics. Welfare economics may isolate an appropriate conception of the desirable – including a detailed specification of what goods government ought to provide, and in what quantities. But welfare economics in itself cannot tell us how to *achieve* the desirable, and the message from public choice theory, a message from *within* economics, does not encourage much optimism in this regard.

The protective state

The analytics that underlie the theory of public goods can be turned to a slightly different question – one of greater interest in the history of political theory – namely, what justifies the use of coercive power by the state in the first place. The idea here is that the provision of the basic structure of personal and property rights and the enforcement of them has certain 'public goods' elements. Put another way, the n-person prisoners' dilemma structure that underlies 'free-riding' problems in public goods supply can also be used to explain why individuals might benefit from the creation of a constitutional order and yet not be able to bring that order about by means of decentralized action. Buchanan (1975a) attempts to offer an analysis of this issue by developing a kind of rational reconstruction of Hobbesian anarchy along prisoners' dilemma lines.

Interestingly, there seems to have been inadequate attention given to the 'public choice' aspect of the issue. That is, it is one thing to indicate why individuals acting collectively to form an idealized compact might desire a constitutional order with well-defined rights and binding rules for both market and political transactions. It is quite another to explain how that constitutional order is feasible. The ancient challenge: 'Who will guard the guardians?' appears to be one that, at least on public choice reasoning, has no answer. If the agents appointed to enforce the idealized agreements made among the citizenry can themselves be modelled as self-interest-maximizers, then no escape from the basic prisoners' dilemma structure seems feasible. Perhaps for this reason, other political theorists (Hampton, 1997; Hardin, 1999), using tools of game theory to analyse the 'Hobbesian problem', have been more inclined to see the emergence of constitutional order in terms of a co-ordination problem, rather like the choice of which side of the road to drive on. Once (almost) everyone else complies, it pays you to comply. The contrast here with public goods/prisoners' dilemma logic is clear: with a public good the incentive to contribute declines as the number of contributors (and level of total contribution) increases.

The distributive state

The public choice challenge is no less one for the analysis of the distributive state. 'Distributive justice' is a central theme in political theory and though political philosophers have been inclined to focus on conceptual issues, the question of political

feasibility cannot be entirely finessed. It is one thing to argue that the distribution of income (or well-offness or capabilities) is ethically unappealing. It is another entirely to explain how exactly political processes will produce a more satisfactory distribution. Yet unless some such argument can be mounted, it is difficult to see how any case for distributive policy can follow from the mere observation that things are less than ideal. Put another way, if the public choice critique of 'benevolent despot' conceptions of government is well taken in the 'productive state' setting, that critique is no less telling in the 'distributive state' setting.

Will voters accede to redistribution away from the majority towards a small subset? And if so, will that small subset reliably be the poorest? There are two broad possibilities here. Either the redistribution that occurs reflects the benevolence of the general taxpayer/voter towards the poorest, or it reflects an effectively conflictual play of political power – the exercise of political muscle by the potential recipients of welfare payments. If the former, one can see how the public goods logic might apply. If each of a number of richer individuals contributes voluntarily to making the poor better off, the effect of his contribution is small. But each might well be prepared to enter into a contract to contribute if all others in a large group do. In the individualized version, the cost to me of making each poor person better off by a dollar is enormous. If the poor represent, say, 10 per cent of the population then the cost to me of this same project under the collectivized version is 11 cents. In other words, transfers to the poor can be considered a 'public good' to the set of potential donors. The fact that much transfer activity is in the form of 'redistribution in kind' – subsidized health and education, subsidized housing, food stamps etc. – suggests that taxpayer/donor preferences do play an important role.

Alternatively, if welfare state transfer policy is seen as the emergent political equilibrium in a conflict of interests between taxpayer/donors and recipients, the precise nature of that political equilibrium requires investigation. Applications of the median voter model to the distributive domain (Buchanan, 1975b; Meltzer and Richard, 1981) yield determinate solutions only in the one-dimensional case. The possibility of 'majoritarian cycling' suggests that the distributional consequences of electoral competition under majority rule are likely to be highly unstable. The mere fact of 'one person, one vote', which might seem to distribute political power more equally than market power, may well be insufficient in itself to ensure stable, systematic redistribution towards the less well-off (Brennan and Buchanan, 1985, ch. 8; Brennan, 2001).

Implications, Conclusions and Misgivings

By way of conclusion, let me offer a brief summary. First, I tried to give an account of the economist's contribution to political philosophy as a matter of taking feasibility considerations seriously (p. 119–21). I then tried to show what that ambition might imply for the style of normative theorizing adopted and for the conception of the desirable itself (pp. 122–6). I next directed attention to two instances of 'feasibility thinking' which have been important for economics – Robbins's epistomological attack on simple utilitarianism; and the assumptions about human nature that dominate economic thinking (pp. 128–36). Finally, I tried to give an account – albeit a sketchy and some-

what personal one – of the economist's theory of the state, in both its 'normative' and positive aspects (pp. 137–47). I place quotation marks around 'normative' here because in my view the public choice claim that public goods theory is inadequate as an account of what government 'should do' is totally unexceptionable. The theory of public goods should be seen simply as an account of 'market failure' with the 'failure' understood by reference to an idealized market benchmark (and not by inference to the implied institutional alternative). A proper normative theory of the state must include some analogous account of 'political failure', and that account must be grounded in a purely positive theory of how political process actually works. In developing such a theory, public choice economists have focused largely on the issue of the proper domain of democratic political activity and in particular on the comparison of centralized (political) with decentralized decision-making processes. However, public choice analysis can also be (and occasionally is) used to evaluate particular political arrangements – including such institutions as bicameralism, super-majoritarian voting rules, the committee system, the secret ballot, and so on.

One aspect of the economic approach that is conspicuous here is its emphasis on institutions. On at least one influential view (Buchanan, 1977), institutions are the uniquely proper domain of the economist's concern. There are three reasons for taking that line: first, that normative analysis of particular policies or actions (as opposed to the institutional setting in which those policy/actions are determined) requires information about individual preferences that is not normally available; second, that the analytical techniques of economics are particularly oriented towards institutional study; and third, that because (on an argument similar to Rawls's) institutions aggregate instances of choice in which participants play a variety of roles, each rational individual is likely to take a more enlightened view than would be taken in each instance – uncertainty about roles to be played over the indefinite future life of the institution washes out narrow self-interest, simply by making it unidentifiable. Isolating the circumstances under which particular institutional arrangements (decentralized market arrangements or centralized collective ones) are likely to work better is the core of the economist's theory of the state and of the economic contribution to normative social theory more generally.

Let me conclude with a proviso and a misgiving. The proviso is that the emphasis on feasibility, and the constraints imposed by the real world, carry a false impression of confidence in social analysis. After all, an outcome is either feasible or it is not. Yet economic analysis (and social science more generally) is not capable of determining the 'feasible set' with any degree of specificity. Determining what is feasible depends on an enormous range of assumptions about the way the social world is and the complex connections between the various bits of it – assumptions that are sometimes controversial and that are, by the nature of the beast, rarely able to be conclusively rejected on the basis of the available evidence. To acknowledge this fact is not to concede that anything goes: it is rather to accept that feasibility claims are, properly understood, ones about what is more (and less) likely. Taking feasibility seriously is mainly a matter of rejecting implausible assumptions rather than producing incontrovertible 'laws' of social organization.

And finally, a misgiving about the anti-idealist thrust of the economist's style of normative theorizing. We are nowadays utterly familiar with the notion that the act

of observation may alter that which is being observed. The dimensions of interconnectedness between observer and observed (and indeed between behaviour and theory about behaviour) are, however, much richer and more complex in social life than in modern physics. As the aphorism goes, nothing is so implausible that thinking cannot make it so. In the particular context here, unheroic theories of human behaviour may enter popular discourse and colour the behaviour those theories are meant to describe. More particularly still, institutions chosen to deal with worst-case scenarios or even most likely ones, may be embodying particular assumptions about human nature which encourage that behaviour and undermine the virtue or heroism that helps those institutions to work well. In any event, while *Homo economicus*'s motivational assumptions may be an acceptable abstraction in many settings of interest to economists – and most notably in the analysis of market behaviour – that abstraction may be much more problematic in other settings into which economists have increasingly strayed. My own view is that, for many of the applications of the economic method that are now fashionable – attempts to explain behaviour in political and legal and academic and professional settings – a rather richer motivational structure than economists standardly apply is required. That motivational structure should accommodate the possibility of (some) virtue, and desires like the desire for esteem by which individual behaviour is constrained by the attitudes of others (Smith, 1759; Brennan and Pettit, 2004). However, it would be a mistake simply to replace *Homo economicus* with some *Homo heroicus* Platonic ideal. The design of institutions that do not make excessive demands on virtue will remain a central issue in institutional analysis. And understanding the limits of what can be achieved even in the best of feasible worlds will remain crucial to proper normative analysis.

Ultimately, it is the insistence on feasibility considerations, as much as the provision of special insights into how political and market institutions actually work, that represents the main contribution of economics to political philosophy. Normative analysis that does not take feasibility seriously is at best incomplete and at worst positively dangerous!

References

Arrow, K.: *Social Choice and Individual Values* (New York: Wiley, 1951).

Arrow, K. and Hahn, F.: *General Competitive Analysis* (Edinburgh: Oliver & Boyd, 1971).

Atkinson, A. B. and Stiglitz, J.: *Lectures on Public Economics* (New York: McGraw-Hill, 1980).

Becker, G. and Stigler, G.: 'De gustibus non est disputandum', *American Economic Review*, 67 (1977), 76–90.

Bolingbroke, Viscount: In *The Craftsman*, 28 February 1730.

Brennan, G.: 'Horizontal equity, an extension', *Public Finance/Finances Publiques*, 26, 3 (1971), 437–56.

—: 'Second-best aspects of horizontal equity questions', *Public Finance/Finances Publiques*, 27, 3 (1972), 282–91.

—: 'Five rational actor accounts of the welfare state', *Kyklos*, 54 (2001), 213–33.

Brennan, G. and Buchanan, J.: *The Reason of Rules* (New York: Cambridge University Press, 1985).

Brennan, G. and Hamlin, A.: 'Bi-cameralism and stability', *Public Choice* (1992).

Brennan, G. and Lomasky, L.: *Democracy and Decision* (New York: Cambridge University Press, 1992).
Brennan, G. and Pettit, P.: *The Economy of Esteem* (Oxford: Oxford University Press, 2004).
Broome, J.: 'Rational choice and value in economics', *Oxford Economic Papers*, 30 (1978), 313–33.
—: *Weighing Goods* (Oxford: Blackwell, 1991).
—: *Ethics Out of Economics* (Cambridge: Cambridge University Press, 1999).
Buchanan, J.: 'The relevance of Pareto optimality', *Journal of Conflict Resolution*, 6 (1962), 341–54.
—: 'An economic theory of clubs', *Economica*, 32 (1965), 1–14.
—: *The Limits of Liberty* (Chicago, Ill.: University of Chicago Press, 1975a).
—: 'The political economy of franchise in the welfare state', in *Capitalism and Freedom: Problems and Prospects*, ed. R. Selden (Charlottesville: University of Virginia Press, 1975b).
—: *Freedom in Constitutional Contract* (College Station, Tx.: Texas A & M University Press, 1977).
Buchanan, J. and Stubblebine, C.: 'Externality', *Economica*, 29 (1962), 371–84.
Buchanan, J. and Tullock, G.: *The Calculus of Consent* (Chapel Hill, NC: University of North Carolina Press, 1962).
Coase, R.: 'The problem of social cost', *Journal of Law and Economics*, 3 (1960), 1–44.
Cornes, R. and Sandler, T.: *Theory of Externalities, Public Goods and Club Goods* (Cambridge: Cambridge University Press, 1986).
Coughlin, P.: 'Pareto optimality of policy proposals with probabilistic voting', *Public Choice*, 39 (1982), 427–34.
Downs, A.: *An Economic Theory of Democracy* (New York: Harper & Row, 1957).
Hamilton, A.: *Federalist Papers*, No. 72 (21 March 1988).
Hamlin, A.: *Ethics, Economics and the State* (Brighton: Wheatsheaf Books, 1986).
Hammond, T. and Miller, G.: 'The core of the constitution', *American Political Science Review*, 81, 4 (1987), 1155–74.
Hampton, J.: *Political Philosophy* (Boulder, Col.: Westview Press, 1997).
Hardin, G.: 'The tragedy of the commons', *Science*, 162 (1968), 1243–8.
Hardin, R.: *Collective Action* (Baltimore, Md.: Johns Hopkins University Press, 1982).
—: *Liberalism, Constitutionalism and Democracy* (Oxford: Oxford University Press, 1999).
Harsanyi, J.: 'Cardinal welfare, individualistic ethics and inter-personal comparisons of utility', *Journal of Political Economy*, 63 (1955), 309–21.
—: *Essays in Ethics, Social Behaviour and Scientific Explanation* (Dordrecht: D. Reidel, 1976).
Hayek, F., ed.: *Collectivist Economic Planning: Critical Studies on the Possibilities of Socialism* (London: Routledge, 1975).
—: *The Fatal Conceit: The Errors of Socialism* (Chicago, Ill.: University of Chicago Press, 1988).
Head, J.: *Public Goods and Public Welfare* (Durham, NC: Duke University Press, 1974).
Heyne, P.: *The Economic Way of Thinking* (London: Macmillan, 1973).
Hicks, J.: 'The valuation of social income', *Economica*, 7 (1940), 105–24.
Hirschman, A.: 'Against parsimony', *Economics and Philosophy*, 1 (1985), 7–22.
Hotelling, H.: 'Stability in competition', *Economic Journal*, 39 (1929), 41–57.
Hume, D.: *An Enquiry Concerning the Principles of Morals* (Indianapolis, Ind., Bobbs-Merrill, 1957; originally published 1751).
Johnson, S. and Mayer, T.: 'An extension of Sidgwick's equity principle', *Quarterly Journal of Economics*, 76 (1962), 454–63.
Kaldor, N.: 'Welfare propositions of economics and interpersonal comparisons of utility', *Economic Journal*, 49 (1939), 549–52.

Katz, M. and Shapiro, C.: 'Network externalities: competition and comparability', *American Economic Review*, 75 (1985), 424–40.

Kelman, M.: 'On democracy bashing', *Virginia Law Review*, 74, 2 (1988), 199–273.

Kelman, S.: 'Public choice and public spirit', *Public Interest*, 80 (1987), 80–94.

Lerner, A.: *The Economics of Control* (New York: Macmillan, 1944).

Lindahl, E.: 'Just taxation: a positive solution', in *Classics in the Theory of Public Finance*, ed. R. A Musgrave and A. Peacock (London: Macmillan, 1967; originally published 1919).

Lipsey, R. and Lancaster, K.: 'The general theory of second-best', *Review of Economic Studies*, 24 (1956–7), 11–32.

Little, I. M. D.: *A Critique of Welfare Economics* (Oxford: Oxford University Press, 1957).

Luce, D. and Raiffa, H.: *Games and Decisions* (New York: John Wiley & Sons, 1957).

McKelvey, R.: 'Intransitivities in multi-dimensional voting models and some implications for agenda control', *Journal of Economic Theory*, 12 (1976), 472–82.

Meltzer, Alan and Richard, S.: 'A rational theory of the size of government', *Journal of Political Economy*, 89 (1981), 914–27.

Mises, Ludwig von: *Socialism* (1922; Indianapolis, Ind.: Liberty Classics, 1981).

Mueller, D.: *Public Choice III* (Cambridge: Cambridge University Press, 2003).

Musgrave, R. A.; 'The voluntary exchange theory of public economy', *Quarterly Journal of Economics*, 53 (1939), 213–38.

Musgrave, R.: *The Theory of Public Finance* (New York: McGraw-Hill, 1959).

Musgrave, R. and Peacock, A.: *Classics in the Theory of Public Finance* (London: Macmillan, 1967).

Oakland, W.: 'Public goods, perfect competition and under-production', *Journal of Political Economy*, 82 (1974), 927–40.

Olson, M.: *The Logic of Collective Action* (Cambridge, Mass.: Harvard University Press, 1965).

Ostrom, E.: *Governing the Commons* (Cambridge: Cambridge University Press, 1990).

Pigou, A. C.: *The Economics of Welfare* (London: Macmillan, 1920).

Plotnick, R.: 'The concept and measurement of horizontal inequity', *Journal of Public Economics*, 17, 3 (1982), 373–92.

Robbins, L.: *The Nature and Significance of Economic Science* (London: Macmillan, 1932).

Robertson, D.: 'What do economists economize?', in *Economic Commentaries* (London: Staples Press, 1956).

Samuelson, P.: 'The pure theory of public expenditure', *Review of Economics and Statistics*, 36 (1954), 387–9.

—: 'Diagrammatic exposition of a theory of public expenditure', *Review of Economics and Statistics*, 37 (1955), 350–6.

Schelling, T.: *The Strategy of Conflict* (Cambridge, Mass.: Harvard University Press, 1960).

—: *Micromotives and Macrobehaviour* (New York: W. W. Norton, 1978).

Scitovsky, T.: 'A note on welfare propositions in economics', *Review of Economic Studies*, 9 (1941–2), 77–88.

Sen, A.: 'Rational fools: a critique of the behavioral foundations of economic theory', *Philosophy and Public Affairs*, 6 (1977), 314–44.

—: 'Utilitarianism and welfarism', *Journal of Philosophy*, 76 (1979), 463–89.

—: 'Rights and agency', *Philosophy and Public Affairs*, 11 (1982), 3–39.

Shepsle, K. A.: 'Institutional arrangements and equilibrium in multi-dimensional voting models', *American Journal of Political Science*, 23 (1979), 27–60.

Shepsle, K. A. and Weingast, B. R.: 'Structure induced equilibrium and legislative choice', *Public Choice*, 36 (1981), 221–37.

Shubik, M.: *Game Theory in the Social Sciences* (Cambridge, Mass.: MIT Press, 1982).

Smith, A.: *The Theory of Moral Sentiments* (Oxford: Oxford University Press, 1976; originally published 1759).

Stern, N.: 'On the specification of models of optimum income taxation', *Journal of Public Economics*, 6 (1976), 123–62.

White, M. and White, A.: 'Horizontal inequity in the federal income tax treatment of homeowners and tenants', *National Tax Journal*, 18 (1965), 225–39.

Wicksell, K.: 'A new principle of just taxation', in *Classics in the Theory of Public Finance*, ed. R. A. Musgrave and A. Peacock (London: Macmillan, 1967; originally published 1896).

Chapter 6

International Political Economy

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For many years International Political Economy (hereafter IPE) was something of a misfit in the study of international politics in particular and political science – indeed, in the social sciences in general. It was never at ease with the economist, for whom it was not 'real economics'; it was far too 'economistic' for scholars of international relations; too 'international' for scholars of political science; and largely unnoticed by normative political philosophy. As a consequence, it tended to sit at the periphery of most social science 'disciplines'. For a range of reasons to be discussed in this companion essay to political science, this situation has changed dramatically over the last two decades. IPE is now deemed more salient to the study of politics and international relations and even some branches of economics. Pertinently, the interactions between IPE and philosophy are becoming similarly important of late.

The essay provides a synoptic analysis of international political economy with backwards and forwards linkages between it and contemporary political philosophy. I have taken my steer for the structure of this chapter from the editors. The chapter does two things. First, it provides a 'practical guide to someone who wants to find their way through the relevant field'. To this end the essay is addressed not at the specialist of IPE; rather it is embedded within the context of the social sciences and especially economics and political science. Second, political philosophy is read as political 'theory' broadly defined but with a specific interest in 'normative thinking' (Goodin and Pettit, 1995, p. 1).

IPE should be understood as both a field of enquiry and a substantive issue area in the study of international relations (hereafter IR). Whilst it is not a sub-branch of international relations, its most recent instigating discipline, somewhat limitingly, has been IR and the rediscovery of the relationship between IR and international economics in the last quarter of the twentieth century. IPE draws, of course, from the historical evolution of political economy (Caporaso and Levine, 1992; Watson, 2005) but the recent growth of IPE throughout the latter stages of the twentieth century has been underwritten largely by economics of the neoclassical variety rather than the more historicist political economy approaches whence it originally came. This is much more so the case within a North American context where, unlike its European counterpart, IPE tends to place less emphasis on the need to see economic activity embedded in social, political and historical contexts and especially the social bonds that developed between the market and the state in the twentieth-century European system.

IPE's strength, in both theory and practice and across the field, is that it eschews the analytical separations that have pertained between the study of economics and politics (and, *ipso facto* IR) throughout the twentieth century. It also resists the notion of discrete national economies within the international (or 'global' economy). However, without an understanding of how economics and the other social sciences were drawn apart in the past, we cannot see why IPE has been important as an analytical exercise to bring them together under conditions of globalization. If all we now knew of the world was its material conditions under globalization, it would seem odd to recent students of IR that these disciplines were ever separated. IPE's analytical salience has grown as globalization has become an increasingly important phenomenon over the late twentieth and early twenty-first centuries (Higgott, 1999).

The first section of the essay identifies the different modes of thinking (it is hard to call them schools of thought) that inhabit the world of IPE. Section two offers an explanation of the development of IPE. This, in turn, is done in a twofold manner. Firstly, it focuses on the linkages between globalization as practice and process, on the one hand, and IPE as explanation and analysis, on the other. Using policy-focused lenses, it identifies the substance of IPE that emerges from the growing salience of interdependence and globalization in the last quarter of the twentieth century. Secondly, it provides a brief intellectual history of IPE to show it as an epistemologically and methodologically contested area of enquiry within which the principal demarcation line is between a deductive rationalist tradition, dominant in North American scholarship, on the one hand, and an essentially inductive mode of reasoning that prevails in many non-North American scholarly communities (in both Europe and the southern hemisphere), on the other. Within IPE, subject matter – the relationship between the economic and political and the domestic and the international – is less the issue of disagreement than the appropriate theoretical perspectives to be employed.

The third section identifies the core policy issues that IPE will have to address in the early third millennium: especially, 'how do we govern the global economy under conditions of globalization and, more importantly, how we do so in an ethical, responsible, accountable and just fashion?' The relationship between globalization and governance is what will lodge IPE at the centre of the study of world politics and economics in the twenty-first century. Questions about this relationship are not merely technical-cum-practical and policy focused. They are highly charged normative questions. It is here that the relationship between IPE and political philosophy as normative political theory is becoming increasingly salient. It is the relationship that makes IPE important to *A Companion to Contemporary Political Philosophy.* It is, or should be, as important to the normative theorist as it is to the scholar of IPE.

Contemporary Approaches to IPE – a Brief Introduction

In the late 1960s and 1970s, scholars of IR in the United States began to focus on the growing importance of transnational economic relations and the consolidation of interdependence (Keohane and Nye, 1970; 1977). In Europe, Susan Strange (1970) identified the serious mutual neglect that existed between international economics and international relations. But it is not always clear what is meant by IPE. It is a contested

field of enquiry, as can be seen from a comparison of its two main journals: *International Organisation*, which reflects the heavily rationalist focus of North American scholarship, and the much more pluralist/eclectic *Review of International Political Economy*, which mirrors the stronger radical and constructivist intellectual enterprises of the European scholarly community. The only real focus of agreement across contested views is in the need to end the separation of analysis of economics and politics and between the domestic and international political economy.

The broad divide to be found amongst analysts is between those who see IPE as the objective application of economic principles to international issues and those scholars who see IPE as a more interpretative, historical and structural way of thinking about the global economic order. For the former group objective reality exists. For the latter group reality is intersubjective. In this regard, the first group expresses a rationalist outlook while the latter is what is now called a 'reflectivist' and/or 'constructivist' outlook. For some scholars these two approaches, reflecting incommensurable epistemologies, are irreconcilable (Hollis and Smith, 1991). For others, increasingly in the USA but also amongst some European and Asian scholars, constructivism represents a critique and refinement of the limits of rationalism (see Finnemore and Sikkink, 1998; Katzenstein et al., 1998).

Rationalists draw on the tradition of economics, especially the maximization of choice under conditions of scarcity. They rely on an assumption of instrumental rationality in the identification of the behaviour of actors. Rationalists privilege shared knowledge and (often imperfect) information, identifiable actor preferences, and strategic thinking. These factors come together in the importance rationalists place on game theory as a way of determining actor behaviour. If, it is argued, we understand actor preferences then we can determine strategies and subsequent policy outcomes.

Constructivists, on the other hand, stress the intersubjective nature of knowledge, without which the world has no material meaning. They are concerned with how the existence of multiple identities constrains an objective understanding of reality from which rationalists think economic models can be drawn in non-problematic fashion. Constructivists privilege the 'constitutive' characteristics of knowledge, identities and norms which define not only how socio-political actors behave towards each other but also, more deeply, the sources of the identity of these very actors (see Wendt, 1999). Within the context of this broad divide, IPE reflects the range of general theoretical orientations and causal relations to be found in the other areas of the study of international relations – realist, liberal, Marxist and the like.

In their causal explanations, realists privilege the centrality of the state and the use of coercion and power; liberals privilege negotiation, contractual obligations and the development of regimes; Marxists privilege the role of material and ideological exploitation. Realists and liberals disagree less about assumptions over how actors, especially states, will behave and more about what are the international problem areas in need of resolution; that is, what are the aims and aspirations of states? Realists assume states are interested in securing benefits and gains in superior quantities to their international competitors (relative gains). These are secured in distributional conflicts in which power is the salient variable (Greico, 1988). Liberals assume that states are primarily interested in minimizing market failure and securing overall welfare improvement (absolute gains). While not denying elements of the realist position, liberals see a much

stronger role for agreed institutional arrangements (regimes) that will leave all players better off (Keohane, 1989).

We can also identify what we might call a turn to 'critical theory' in IPE, which in part emanated from the harnessing of European continental philosophy to IPE. This work is complex and multifaceted and much more structuralist in orientation. Critical theory should be seen as a shorthand reflection of alternatives to mainstream (neo)realist, and (neo)liberal approaches. Some see critical theory at the 'margins of the discipline of international relations' (Weber, 2002). I see it more closely as a reflection of the distinction between the dominance of a realist–liberal paradigmatic spread in a North American context and a more pluralist approach reflecting elements of Marxism (orthodox and Gramscian) and, albeit to a lesser extent, critical theory of the Frankfurt variety. It differs from the structuralism of, say, Susan Strange in its transformationalist normative agenda.

The major contribution to critical theory is to be found in the writings of the early dependency theorists (Prebisch, 1963; Cardoso and Falleto, 1979), world systems theorists (Wallerstein, 1979) and later Marxists such as Robert Cox (1987) and Stephen Gill (1993; 2002). Rather than see IPE as but a subdiscipline of international relations (the common position within the wider IR community throughout most of the second half of the twentieth century), they see IPE as that larger set of material structures that determine world order. International relations (relations between states) are but part of these structures. Across the spectrum, political and economic outcomes are determined by the organization of capitalism.

This structuralist position contrasts sharply with the dominant tradition in IPE in the USA, which grew out of the identification of international interdependence and transnational relations in the 1970s (Keohane and Nye, 1977). The importance of this was as much its identification of IPE as a field of study as any serious theoretical advance. It was still very much a 'state to state' style of international relations and did not make the connections with the domestic political economy in the way that Marxists claimed to do. Indeed, the importance of Marxist analysis was the manner in which it concentrated on the determinants of foreign economic policy such as the interests of multinational corporations and the role of social forces and political institutions.

It was only towards the closing stages of the twentieth century that mainstream analytical insight in the USA, as its key figures are now willing to concede (Keohane and Milner, 1996; Katzenstein et al., 1998, p. 648), began to take these linkages seriously. The conversion arose from a change in intellectual thinking – principally, a modest recognition of the limits of rationalism and the importance, in their different ways, of institutionalist and sociological perspectives. With their emphasis on the effects of social and political institutions on economic behaviour and the salience of norms and values, these two areas of investigation saw the rationalist discourse in IPE in the USA widened.

These developments illustrate the impact of differing intellectual traditions on how students of IPE practise their craft. The boundary between the domestic and the international was never as sharply painted in Europe as it was in the USA. Similarly, the distinction between the material world and the world of ideas was never as discrete. By their own admission (see Katzenstein et al., 1998, p. 674), the concentration on method rather than substantive issues caused US scholars of IPE, for a long time, to miss the

importance of the identities of actors and the norms that drove policy thinking. American IPE is now attempting to address this lacuna by bolting on constructivist thinking to its rationalist method. It does so not to demolish rationalist understandings of actor behaviour but to modify and contextualize them (see Goodin and Tilly, 2006). This is acceptable to US scholarship in a manner that postmodernism never was.

Explaining the Emergence of IPE

Globalization and IPE

Throughout much of the twentieth century IPE had long been thought of as a secondary dimension of IR in both scholarship and practice. This was especially the case in the early stages of the post-Second World War era when the dangers of nuclear war became the driving force of IR. But from the 1970s IPE was no longer seen simply as international economic relations concerned with trade and finance, and often disparagingly referred to as 'low politics' when contrasted with the high politics of diplomacy and security. The situation changed at both scholarly and policy levels. While it is not always easy to separate the primary from the secondary influence in the relationship between scholarship and policy, it was policy change that drove scholarly study rather than the other way around.

To be specific, the onset of 'globalization', for all its faddishness, was important in alerting the wider community to the salience of IPE. The search for international competitiveness, and the recognition that national policy autonomy may have been circumscribed by the changing relationship between state authority and market power in an era of deregulation, elevated IPE from a sub-branch of IR. Nowadays, IPE, perhaps more than any other area of IR, has the greatest correspondence between its growth as an area of study and the growing impact of globalization.

There are, of course, many ways to understand globalization (the most overused and under-specified international concept of the post-Cold War era). For students of IPE two ways of understanding are most important – globalization as both a set of structures *and* as a set of complex and contingent processes that lack uniformity and that may be moving in a secular direction over time (Rosenau, 1997). The argument of the modern scholar of IPE (irrespective of the particular methodological church to which they belong) is that the analytical fiction of the separation of politics and economics is unsustainable under conditions of globalization. When we talk of *the international* (or, for some, 'global') *political economy* we are thinking of those domains of international activity in which the behaviour of markets – as the providers of finance, services and goods (now in that order of priority) – is a major form of global activity.

In this context IPE is more interested in the activities of the 'competition state' (Cerny, 1997) than the 'security state'. IPE focuses on the changing relationship between state authority and market power and the role of non-state and intergovernmental actors (especially multinational corporations [MNCs], international financial institutions and the large non-governmental organizations [NGOs]) in this relationship. IPE as a field of enquiry treats the boundaries between the international and the domestic and the economic and the political as porous. Yet the basic unit of

activity and policy is still the national economy and, if we want to be simple-minded, in many ways the international economy is, in formal empirical terms, still little more than the sum of all inter-state or trans-border economic activity.

Also, in a formal sense, it is still states that negotiate treaties and international agreements and create international institutions. This is the most obvious way of thinking about international economic relations, but it is also a static understanding of what is now a much more dynamic set of processes in which the relationship between state activity and the activity of markets and non-state actors is changing. It is limited in other ways, too, that have become increasingly apparent over recent years. This static analysis offered us no way of understanding the evolving normative questions concerning the impact, or potential impact, of globalization on persons (individuals or populations) that is becoming the concern of political philosophers interested in global issues (and is addressed in the third section).

We need to go beyond this simple formulation under conditions of globalization. A model of understanding that identified the 'politics of international economic relations' (PIER) (see Spero, 1981), reflecting a state-centric world, may have pertained for most of the period since the inception of the Westphalian system, but it is clearly under challenge. While there are continuities, there are also dramatic changes in train that are better captured by an understanding of IPE, reflective of a more globalized world in which the autonomy of states is diminished by global economic interdependence. This reflects the increasing importance of the economic dimension of international relations and the political dimension of economic relations.

While the 'PIER to IPE' metaphor offers an insight into changed thinking, it is but a heuristic device. Both positions are somewhat caricatured and more nuanced than assumed. IPE has a focus on the international system and the manner in which that system interacts with the domestic political economy. The key factor in the shift from PIER to IPE has been a recognition of the impact of 'structural power' in international economic relations; especially the emergence of a global division of labour and the demand for, and provision of, credit and knowledge increasingly at the global – as opposed to the national – level (see Strange, 1988).

Economic analysis (and realist analysis in IR) had all too often ignored structural, as opposed to relational, power. In part this is because of the illusive nature of the concept. In a relationship between A and B, it is empirically possible to determine who has power over whom. Structural power is more difficult to determine since it is embedded in structures of knowledge, production, finance and security. While we might intuitively understand how structural power embeds asymmetrical relationships that privilege some actors (state and non-state alike) at the expense of others, it is not easy to identify or analyse these processes in a quantitative manner. Observations of structural power in action are invariably qualitative and discursive. But we understand more fully nowadays how the *structural* power of markets has increased at the expense of the *relational* power of states.

To the dimensions of structural power we must also add the impact of the communications revolutions of the 1990s. This has increased not only the speed of communication, but also the number of actors involved in the deliberation of international economic policy. It has seen the widening of the global economic policy agenda from a 'technical' one (concerned with enhancing efficiency in the global delivery of goods

and services via the liberalization of trade, privatization of erstwhile state-owned assets and the deregulation of finance) to a highly political one in which normative issues of accountability and legitimacy have also become salient; hence the need for increasing intellectual interactions between IPE and philosophy.

While the increasing importance of normative issues is a theoretical move, it is predicated on the hard narrative of the last quarter of the twentieth century that we now ubiquitously refer to as the era of globalization. During this period (and especially the 1990s) the impact of (a) the increasing deregulation and volatility of the global financial markets, (b) the growing politicization of the international trade regime (especially since the creation of the World Trade Organization, WTO, in 1995) and (c) the increased questioning of the economic utility and political legitimacy of the international financial institutions as vehicles for financial stability (the International Monetary Fund, IMF) and development (the World Bank) as North–South issues reappeared on the international political agenda (see Wade, 2006), has enhanced the importance of a normative turn in IPE.

With the passage of time the material changes associated with globalization have begun to unravel the distinctive resolution of political and social functions (especially the provision of collective goods) achieved by the sovereign state. If one main aim of the post-Second World War liberal international order was to domesticate the international economy, globalization has changed this. The embedded liberal compromise that underwrote post-Second World War state–society relations and the ‘Bretton Woods’ global economic order has passed. If domestic and international politics became embedded and intertwined in the post-Second World War global system, and states were the sites of a trade-off to cushion domestic society against external pressures, this is now less the case (compare Ruggie, 1982; 1995).

Globalization, especially the urge for free markets and small government, has altered the relationship between insiders and outsiders, between citizens and the state and between the state and the global order. As economic deregulation and denationalization have proceeded, it has become difficult for states to manage the domestic–international trade-off in a way that satisfies competing demands on it (Rodrik, 1998). The demand for free markets and the declining compensatory domestic welfare mechanisms, when pursued in combination, are a potent cocktail leading to radical responses from the dispossessed. Liberalization may enhance aggregate welfare overall but it does not solve the ‘political’ problem. Securing domestic political support for the liberalization of the global economy requires more than just the assertion of its economic virtue. It also requires legitimacy.

Under conditions of globalization, the legitimation question must now be addressed not only within, but also *beyond* the boundaries of the state. At a normative level IPE is the intellectual site at which students of the economics of globalization and the international politics of legitimacy must interact. What we are seeing, as the third section will demonstrate, is an attempt to upscale a debate that has to date only previously been conducted within modern developed states, not at the global level.

Of course, it is not appropriate to assume that most countries are integrated into global markets in a uniform manner. There are massive differences in the degree and speed with which any such integration takes place and automatic expectations of the continued advance of globalization as rational and rationalist activity – especially

defined as economic liberalization – should not be assumed. The existence of such variation does not lend itself to easy generalization. It is this complexity of analytical understanding with which students of IPE struggle. For sure, there are important historical continuities with the past (O'Rourke and Williamson, 1999) but globalization, notwithstanding some continuity, does represent a new historical phase. This newness is to be found in the simultaneity of change in a range of economic phenomena such as trade liberalization, the deregulation and integration of capital markets, the privatization of national assets, the retreat of state functions (welfare ones especially), the diffusion of technology and the cross-national distribution of production and foreign direct investment.

But this argument (the strong globalization theses, SGT) of the 1990s (see Ohmae, 1990; Luttwak, 1998; Friedman, 1999) – implying the end of the nation-state and convergence of macro-economic policy around an Anglo-US-style neoliberal model – was overstated. States still have substantial national regulatory assets and capacity (Wade, 1996; Zysman, 1996). Indeed, no explanation of globalization is sufficient without an understanding of the way in which states, especially the USA and the UK (Helleiner, 1995), have embraced and fostered it and in so doing have undergone processes of adaptation within a linked dynamic economic system and inter-state system. In some states certain policy instruments, particularly those associated with macro-economic adjustment strategies, may be enfeebled by globalization, but others, such as those related to industrial policy, for example, do change in a number of creative ways (Weiss, 1998).

The intellectual origins of international political economy

The last section demonstrated the manner in which international political economy had grown in salience as a scholarly pursuit as a response to the growth of international economic interdependence and what we now call globalization. To this extent it has been 'policy driven'. But to privilege a policy focus at the expense of other variables would be a mistake, especially if we wish to understand the normative turn in IPE (and indeed IR in general) over the last decade or so. It is also an assumption of this essay that some insight into the intellectual origins of IPE – especially its relationship to our theoretical understanding of the state, on the one hand, and the epistemological and methodological questions that exercise the minds of scholars of IPE, on the other – will be of greater interest for readers of this book than the more overt policy-related issues that drive IPE.

Given the Westphalian understanding of sovereignty that prevailed in much scholarship on 'the international' throughout the twentieth century (see Walker, 1993; Spruyt, 1994) – with the state as the primary subject of modern international relations – the management of the national economy was a crucial function of the state. Thus, at the heart of the study of political economy were competing accounts of how states should govern their economies, especially the extent to which governments should intervene in and regulate economic activity. Despite ideological and normative differences, there has been a historical tendency within liberal and non-liberal traditions alike to treat national economies as discrete systems of social organization more or less delimited by the state's territorial boundaries. Economies were conceived as self-

contained, self-regulating systems of exchange and production. This was as true for liberals such as Adam Smith and David Ricardo as it was for economic nationalists/mercantilists like Franz List and Alexander Hamilton.

These thinkers were not blind to how economic activity commonly spilled over national frontiers. Indeed the theory of comparative advantage required cross-border trade, but they treated national economies as self-contained units in the international market. The economy served the community of the state in which it was embedded; and its functions and benefits were defined via the interests of a given political society. States monopolized the right to raise taxes within their boundaries, thus enhancing the correlation of the economy with the state. One of the general functions of the state therefore was to govern the economy to promote the wealth and welfare of the community. The relationship between wealth and power, or indeed power and wealth, was long well understood, as was the salience of foreign trade as an instrument of state power (Hirschmann, 1945; Viner, 1948). For liberals and mercantilists alike, the market mechanism came to be seen as the surest and most efficient means of ensuring the liberty, security and prosperity of both individuals and the community; the difference between them was not over the basic market mechanisms so much as the degree to which governments would emphasize regulation and manipulation of economic activity to best satisfy community needs.

In this historical context, most social science started out as political economy. But, from the time of the marginalist revolution in economics in the second half of the nineteenth century, economics as a discipline came to believe that its mode of analytical reasoning would allow it to exist separately from the other social sciences (Heilbroner and Milberg, 1995). From that time, political economy developed as a theory of choice under constraint in which economics became 'a way of acting' and politics 'a place to act' (Caporaso and Levine, 1992, p. 32). Once the bifurcation was established, economics and political science went their separate ways throughout the twentieth century. As a consequence, political science (and also sociology) matured as separate disciplines. In the context of the times each, respectively, became grounded in the study of *national* economies, *national* polities or *national* societies.

But internationalization, and subsequently globalization, has shattered the distinction between the *domestic* and *international* (on which international relations as a new twentieth-century social science discipline had been built). It also poses serious and continuing questions about the utility of analyses that focus exclusively, or even predominantly, on discrete economic, political or social explanations of complex transnational phenomena. Or this, in theory, should be the case. But most social scientists still feel more comfortable working within 'national' or 'statist' methodological paradigms.

What is needed to cope with globalization is a readiness to tear down intellectual barriers and bring together approaches, methods and disciplines which for too long have been set apart. We have to explain the relationship between an increasingly non-territorial and globalized economic system, on the one hand, and the continued existence of a territorially delimited hierarchical system of states, on the other. No one set of disciplinary lenses has the capacity to do this. We must, borrowing a phrase from Albert Hirschmann (1977), go 'trespassing'. With honourable exceptions, this is not something social scientists are usually willing to do, especially in the United States

where scholarly divisions of labour are stronger, and methodological battles more fiercely contested, than in other parts of the world (Cohn, 1999).

IPE as a methodological competition

Methodological competition in the social sciences has invariably turned around what we might call the deductive–inductive divide. This divide is illustrated in the absence of discussions between the economist, on the one hand, and the scholar of government and politics (sometimes uneasily called 'political scientists'), on the other, throughout most of the twentieth century. In crude terms, the deductive economists saw themselves as rationalist guided scientists, if not formalizing laws then at least presenting intuitive propositions that could then be modelled and tested. On the other hand, inductivist students of politics, through a process of experiential inferential observation, would gradually build up knowledge of the real world. Scepticism as to the identification of law-like properties in social knowledge was always present in this approach. By contrast, our deductivist economist would resist the possibility of laws of any kind emerging from mere processes of observation and inference.

Throughout the twentieth century these methodologies have been in competition; neither, of course, is without weakness. It is clear, however, that the deductivist rationalism of the economist has fared professionally much better than the inductivist inferential and empiricist approaches of the student of politics throughout most of the last century and, indeed, has extended its influence into other social science disciplines, including political science and international political economy, over the last quarter of the twentieth century. Indeed, there is bibliometric evidence to demonstrate that political scientists (and sociologists) read more widely outside of their discipline than economists, who rarely do and are often uncomfortable even within the core of economics and comfortable only in their own subdiscipline (see Frey and Eichenberger, 1997).

The dominant mode of policy thinking in the economics discipline advances economic liberalization as progress. It is in part for this reason that modern neoclassical economic theory has been globalization's intellectual handmaiden. Resistance, critique even, can be seen as anti-progressive. With methodological individualism and the notion of equilibrium as core tools, economic theory's subsequent influence over public policy has been largely unchallenged. In the late twentieth century, economics became not only the study of the material world but also the 'approach' to studying wider elements of the socio-political world. In the search for scientific scholarship political economy became the application of economic analysis to the various arenas of politics (domestic and international) (Caporaso and Levine, 1992, p. 31).

To the extent that political economy (and IPE) became a site at which the social sciences met, if this happened, it was invariably on the terms of the dominant actor – to wit, the economics discipline. At one level, this is maybe how it should be. The central concerns of economics – material production, distribution and exchange – are the central activities of life. Indeed, most social sciences started out as political economy until economists came to believe that their modes of analysis could exist as some kind of disembodied study and disciplinary specialization began to take over. Points of contact only really began to re-emerge over the closing decades of the twentieth century as other social sciences recognized, on the one hand, that they needed to take on board

economic method in order to become 'scientific', and, on the other, because some economists felt that they wished to, and could, colonize the issues areas of 'social' and 'political' life, traditionally the preserve of sociologists and political scientists (see Fine, 1998). Particularly relevant here was the manner in which rationalist, especially game theoretic analytical models, developed within economics, lent themselves to the interest of the IPE scholar in collective action problem solving and institutional economic policy co-ordination at the international level.

For many economists of a colonizing bent, economics became not so much the study of the economic material world as 'the approach' for studying wider elements of the socio-political world. As Barry Eichengreen (1998, p. 993) noted:

> Economists are notorious for their intellectual imperialism, feeling no compunction about applying their kit of tools to everything from dental hygiene to nuclear war. It is hardly a stretch, therefore, to adopt economics as a perspective from which to view international relations.

This colonizing behaviour of economics progressed in a threefold manner:

- by treating non-economic relationships as though they were in fact 'market relationships' of one sort or another;
- by defining the 'social' and the 'political' as though they were but the sum total of aggregated individual acts; in short by analysing the utility-maximizing behaviour of actors in a given domain;
- and by stressing the importance of the equilibrium.

'The equilibrium' for economists is less the securing of settled mutual adjustment than a belief that change in economic systems (especially of prices) will, over time, inevitably result in convergence on a common point. Actor convergence would be achieved through the pursuit of self-interest and notwithstanding the constraints under which they might operate. By contrast, disciplines such as IR used the language of differentiation, anarchy and path dependence, rather than convergence, as their organizing principles beyond the confines of the state. This difference, until rational choice theory gained hegemonic status in American political science (see Cohn, 1999) (and, albeit more slowly, by extension in international relations and IPE in the USA), was a reflection of the opposing modes of reasoning present in economics, on the one hand, and international relations (and most social sciences other than economics), on the other.

Some branches of political science – especially the development of the theory of collective action (Olson, 1965; 1982) – have aided and abetted the economics discipline in its imperial quest. Economics largely ignores politics. But politics destabilizes, and indeed influences, equilibrium outcomes more than rationalist-driven economic theory is prepared to concede. This is clearly the case with path dependency, and the observation of difference rather than the identification of patterned behaviour. Path dependence creates a series of 'lock-in effects' that limit alternative choices of action. The singularity of rationality in decision making is thus contaminated and constrained.

Ironically, with its seemingly inexorable inability to secure equilibrium outcomes, political science (and by extension IPE) – rather than economics – is in fact, as a leading

rational choice theorist in political science has noted, more 'the dismal science' than economics (Riker, 1980: 443). Indeed, the practice of 'politics' is the practical outcome of an inability to reach rationally determined equilibrium. It is the complexity in the strategic relationships between actors and the ensuing fragility of politics in the study of particular historical events that can render much rational choice theory, with its desire for formalization, problematic.

Such an argument would likely be dismissed in the higher reaches of rationalist theory as a defence of '*ad hocery*' in the other social sciences, which are weak because they assume instability, unpredictability and difference of activity rather than patterned behaviour. Thus for economists, political economy is not an inclusive research activity or field of enquiry, but a methodology – the use of rational choice in economics. As one leading student of the historiography of economics argues: 'Political economy, as the term has come to be used today, is a broad discipline that studies the interface between economics and politics, *using the method of rational choice theory*' (Basu, 2003, p. 1; my emphasis).

In the 'economic approach' anything not predictable or contributing to a pattern is taken to be exogenous. IR scholarship, Eichengreen argues, 'needs to move in the direction of formulating parsimonious models and clearly refutable null hypotheses, and towards developing empirical techniques that will allow hypotheses to be more directly confronted by the data' (1998, p. 1012). In his now classic defence of deductive rationalist method and critique of inductive reflexivism in international relations and IPE, Robert Keohane (1988, p. 382) insisted on the need to focus full square on 'substantive rationality', if we are to avoid 'diversionary philosophical construction'. In a North American context, Keohane's view has clearly prevailed. The test of good IPE is largely the degree to which the IR scholar can learn and handle the tools of rationalist method found within economics. In so doing, it has made IPE the handmaid of the intellectual hegemony of economics (see Martin and Simmons, 1998; Milner, 1998).

Rationalist theory may be hegemonic in North American IPE, but there are currents in IPE that have not been equally seduced or suborned, especially across the Atlantic, where modes of reasoning of a non-deductive nature remain attractive and where assumptions that patterns in everyday events, and the mechanisms that underlie them, can also be inferred on the basis of historical observation. This is not, I should stress, to reject deductive rationalist theory. It is increasingly important, for example, in understanding the behaviour of institutions as agents of collective action problem solving. But for many scholars of IPE, traditional narrative approaches of an inductive nature – what Dahl (1962, pp. 101–4) long ago referred to as empirical theory in political science – remain centrally important. They do so for three reasons.

First, empirical theorizing allows us to look at both persistence and change in values and practices over time. It is an especially invaluable approach to adopt when working at the interface of international and comparative political economy. Narrative approaches concentrate on processes and anchor research in historical perspective. The language changes but very often the issues, questions and agendas remain directly similar in substance. Second, an inductive experiential narrative approach, in contrast to a deductive approach, finds it easier to identify path dependence and sequencing. Third, a narrative approach/empirical theory in IPE has assisted institutionalism and history to reassert themselves in the closing stages of the twentieth century after a

period in which both were marginalized in favour of social 'science', narrowly defined as validity and falsifiability, during the late 1950s through to the early 1970s (see Apter, 2002, p. 256). Without history, international relations (and IPE) cannot identify the kinds of patterns of which they are so fond. Narrative (and also inter-textual) methodologies allow us to address broader issues of language and meaning and to bring these to bear in empirical contexts.

What I have offered is not simply a critique of rationalism. Rather I am suggesting a genuine contest among concerned scholars as to where the core of IPE as an approach to study might lie and where the boundaries of the discipline might be. It is not clear-cut. Borders are leaky. No one set of disciplinary lenses has the capacity to cope with globalization. To paraphrase Alexis de Tocqueville, we need a 'new science for a new world'. In this new world we have to explain the relationship between an increasingly non-territorial and globalized economic system, on the one hand, and the continued existence of a territorially delimited hierarchical system of states, on the other. But at the end of the twentieth century, much social science – and economics in particular – despite a growing rhetoric about the importance of multi-disciplinarity, remained largely bounded by their own intellectual and political histories.

Lest those of a strident non-positivist persuasion should feel comforted by the preceding critique of rationality, let me suggest that greater critical charges may be levelled at much work located within the postmodern turn in IR. Just as the language and style of economics, in the name of scientific advance and speciality, hides the simplicity, and at times untenable nature, of some of its most basic working assumptions (see Sen, 1997), so too the language of the discursive theorist can, and often does, obfuscate serious understanding of the manner in which the global political economy – especially in its material manifestations – functions.

The difference between these two extremes of activity is that economists have succeeded in bringing abstractionism into the mainstream of social scientific life – especially in the establishment of the scientific status of the concept of 'equilibrium', from which 'the real world is understood as a deviation' and in which the theoretical importance of the rationality of methodological individualism and the aggregated outcome of individual behaviour, becomes central. In this regard the aim of economics is to explain as much 'as possible by as little as possible' (Fine, 1998, p. 50). In this mode of thinking, economics is not just about market relations and/or material provisioning, but also about calculation using rational choice theory to allocate preferences for welfare maximization in the international economy.

Let me be clear here: to be critical of this often over-eager and sometimes slavish mimicking of economic method by other social sciences is not to deny the importance of what economists do well. They understand the technical dynamics of global markets – no trivial matter. Scholars of international relations do not. But economics is invariably deficient in, or reluctant to accept, the normative implications of much of their work. This is especially so when removed from 'developed world' contexts and what I call the 'parochialism of the present'. Historical and wider spatial (especially developing country) contexts find more sympathetic treatment, or recognition, in IPE.

But economics and the 'economic approach' perform another function unmatched by any of the other social sciences. Modelling the market and, more importantly,

securing the transformation of capitalism into a more precise and neutral representation via scholarly models has given economics a seemingly detached authority within politics and the global decision-making processes. The rhetoric of 'the market' is, for most people, less contentious than the rhetoric of 'capitalism'. The appeal to expert economic knowledge as a source of policy advice, at the IMF or the World Bank, for example (see Stone, 2000), is an appeal to ideologically neutralized or sensitized rhetoric. But behind this scholarly and theoretical detachment is to be found the power of institutions that economic theorists have not been loath to use.

This obsession with scientism has minimized the ability or willingness of much (North American) IPE to make an important normative contribution to IR. It has also meant that many normative IR theorists, as opposed to scholars of IPE, have cultivated a studious ignorance of the 'economic'. To put it bluntly, most 'theorists' of IR are scared of economists. They refuse to engage them, preferring to stay engrossed in their own discursive world. Inter-paradigm debates have flourished in IR over recent decades, but in their aversion to the 'economic', they have represented thin gruel in the wider intellectual and policy communities. It is all very well to want to debate the 'political' and the 'post-political', but just as economists are guilty of 'depoliticization', scholars of IR are equally as guilty of failing to address the centrality of the 'economic' under conditions of globalization.

Equally, the willingness of the other social sciences to be intimidated has left the way clear for economists in most policy fields, and the international domain under conditions of globalization, in particular. While scholars of IR have preoccupied themselves with epistemological and ontological questions, the economists have swept all before them. This is where postmodernism presents us with a paradox. In providing (often plausible) reasons to question rationality-driven 'economic science', postmodernism has often tossed the baby out with the bath water. In IR it has done so with a radical veneer, but one with no practical effect on 'real' issues of the 'international', such as poverty, exploitation and justice. The theorist of international relations has preferred the role of heroic critic on the margin (*pace* Ashley and Walker, 1990) rather than to contest central policy issues of the day (Wallace, 1996).

It is in the context of IR's failure to engage economics at either the scholarly or policy level that IPE becomes a radical and vital exercise. Neither economics nor political science, IPE is best seen as a 'hosting metaphor' to connote two accepted aspects of a field of enquiry. Firstly, IPE is bounded by the exploration of the relationship between power *and* wealth. Secondly, it sits at the interface of the study of international relations and economics and rejects the dichotomy that has prevailed since their development during the twentieth century.

But without overestimating the current and still limited interaction between economics and political science, a rethink of this intellectual separation may be taking place. Globalization, and the communication revolutions that mobilizes it, has generated a set of questions that cannot be addressed simply from within a rationalist paradigm. Nothing better illustrates this than the failure to provide a satisfactory 'rationalist' explanation for the increasingly volatile and herd-like behaviour of financial markets and the ensuing currency crises that occurred in East Asia, Latin America and Russia, under conditions of global deregulation at the end of the last century (Wade, 1988; Higgott and Phillips, 2000).

A new international political economy?

However, the intellectual news is not all bad. A strand of scholarship is gradually emerging which transgresses conventional social science boundaries, on the one hand, and/or resists the abstractionism of postmodernism, on the other (for an early elaboration see Murphy and Tooze, 1991). This approach we could call a *new political economy* that attempts to combine the breadth of vision of the classical political economy of the mid-nineteenth century with the analytical advances of twentieth-century social science (see Watson, 2005; Gamble, 1996; and the essays in Higgott and Payne, 2000, for a flavour). Driven by a need to address the complex and often all-embracing nature of the globalizing urge, the methodology of the new political economy rejects the old dichotomies – between agency and structure, and states and markets – which fragmented classical political economy into separate disciplines. The new political economy also resists Cox's (1981) initially useful but now limited analytical dichotomy between IPE as 'problem solving' and IPE as 'critical theory'. The new political economy, while not positivist – in the Popperian sense – is also not post-positivist, in a postmodern sense, and its normative assumptions are present, implicitly if not always explicitly.

The new political economy's rejection of the anti-foundationalist fantasies of much postmodernism does not lead it into the arms of the abstracted virtualism of contemporary high neoclassicism. Rather it aspires to a hard-headed material (real world) political economy that tries to explain how choice is affected by the social meanings of objects and actions. Indeed, if there is one thing that the emerging processes of globalization teach us, it is that mono-causal explanations of economic phenomena lack sufficient explanatory power. Such a view holds increasing sway at the dawn of a new century. Moreover, it holds sway not just among Third World economic nationalists and academic critics of the neoliberal economic and scholarly agenda but also within sections of the mainstream of the economics community (see *inter alia*, Rodrik, 1998; Krugman, 1999; Stiglitz, 1998; 2002).

This reformist scholarly tradition reflects a resistance to the often overstated virtues of parsimonious theorizing for which the current globalized era offers little comfort (Hirschmann, 1986). The new political economy operates from an assumption that what the marginalist revolution separated, globalization is bringing together. The new political economy is grounded in history and the 'material' but with a critical policy bent. That is a policy bent with a strong normative agenda of 'order' – not an order that is simply a euphemism for the absence of open conflict and the presence of control, but an order underwritten by an impetus towards issues of enhancing justice and fairness under conditions of globalization. It is here that the new international political economy reaches out to philosophy.

We are in a period of contest between the grand totalizing narratives and theories of globalization, on the one hand, and the specific history of various actors and sites of resistance (be they states, classes, regions, or other localist forms of organization) to this narrative, on the other. The new political economy eschews this dichotomy at the same time as it understands the importance of power in its *structural* as well as its *relational* form (see Strange, 1988); and, following Strange, recognizes the need to ask the important Lasswellian questions about power of the 'who gets what, when and how' variety. The new political economy identifies a mix of values (security, wealth, freedom

and justice) that affect the *structures* as well as the relations of power in the world economy (Strange, 1988, p. 18). Implicit in the new political economy is a recognition that the maintenance and governance of the international economy is now as much a political question as a technical one.

Indeed, when intellectual historians look back on this period, they may well recognize it as the era when practitioners began to think seriously for the first time about what the contours of *global* (economic) governance might look like. At the end of the twentieth century, collective action problem solving in international relations was couched in terms of *effective governance*, epitomized in what we now call the era of the Washington Consensus (Williamson, 1990). It was rarely posed as a question of *responsible governance*. Such questions may have been the big normative questions of political theory; but this was almost exclusively the political theory of the bounded state. Most political theories of justice and representative governance assumed the presence of sovereignty. Globalization has challenged these assumptions and is changing the global governance agenda. However, we should not fail to note, a political theory of global governance is in its infancy (see McGrew, 2001).

If it had been politically expedient in international relations (as both theory and practice) to depoliticize issues of redistribution between rich and poor for much of the post-war era – by preserving the distinction between international economics and international politics as well as by defining global governance largely as the efficient provision of a limited range of collective goods – this is no longer the case. Political and ethical issues are increasingly front-loaded in North–South discussions. For sure, the cruder versions of dependency theory, with their 'southern' structuralist critique of liberal economics (see Cox, 1979 for a review) that prevailed on 'the development question' in the 1960s and 1970s, have carried little influence into the twenty-first century. But this is not to suggest that the asymmetrical economic divide between the North and the South has shown signs of disappearing from the international scholarly and policy agenda. Similarly, other theories have regained a resonance in global policy communities too. Indeed, mid-twentieth century theories of a distinctly mercantilist flavour, *pace* Viner (1948), and concerned with questions of statecraft based on economic capabilities and asymmetries in the relationship between states, (especially by the USA in the pursuit of its foreign policy post-9/11), have returned to fashion (Higgott, 2004). In the absence of a stronger intervention into IPE by normative political philosophy than has been the case in the past, they will flourish.

The Demand for Political Philosophy in IPE

IPE, while always carrying a set of normative assumptions around, has yet to develop at its core a sophisticated and consistent ethic of justice and fairness, on the one hand, and democracy (seen as representation, accountability and legitimacy), on the other. The attempt to harness important work in political philosophy is in its infancy, rather in the way that philosophy's ability to operate effectively beyond the level of the state is also in its infancy. But from both perspectives an important trend is in train. There is a change in intellectual fashion wrought by globalization, or, more specifically, by the challenges (what some would call the 'backlash') to globalization that emerged in

the late twentieth/early twenty-first century. This has occurred in two ways. Firstly, globalization challenges some central tenets of economic theory as both method and policy, especially with regard to the assumed relationship between enhanced aggregate economic growth and poverty alleviation. Secondly, it causes us to ask new questions about the impact of globalization on existing international economic governance structures, especially on ethical governmental and political processes. In short, globalization changes the way we think about two core concepts of the political philosophy of the modern state – justice and democracy.

As is well known, the globalization 'backlash' only really gathered momentum when the currency flights from East Asia in 1997 decimated several so-called 'miracle' economies (Higgott, 2000). The protests against a proposed Millennium Trade Round at Seattle in November 1999 have, since that time, ensured that the ethical debate about globalization is now no longer a secondary discourse. Seattle forced mainstream economic supporters of globalization (*pace* Bhagwati, 2004; Wolf, 2004), for the first time, to realize that they had to justify the way the global economy was developing, rather than repeat the 'there is no alternative' mantra.

The serious, long-term ethical analysis of globalization had begun. Pre-globalization assumptions that states steered national economies no longer hold in the way they once did. Normative discussions about the limits to justice (especially questions of socio-economic distribution) and democracy (especially representation and accountability) can no longer be conducted simply amongst national publics with national boundaries. A Westphalian cartography assuming stable identities and clear lines of authority – usually a state – where justice can be realized cannot be axiomatically assumed. Under the influences of globalization the boundaries of politics are unbundling and stable social bonds are deteriorating.

It is no longer sufficient to focus simply on the just ordering of social relations within a given state to ensure the social bond between the citizens and the state is maintained (Devetak and Higgott, 1999). Discussion has begun to move beyond statist paradigms, especially with the growing interest in the role of networks and other third-sector actors in contemporary international relations. Increasingly complex understandings of non-state regulation and interaction across the policy spectrum exercise scholars of IPE, international relations and global public policy alike (see *inter alia* Reinecke, 1998; Braithwaite and Drahos, 2000; Keck and Sikkink, 1999; Sinclair, 2000; Risse, 2002; Stone, 2002; and Slaughter, 2004).

The stuff of political philosophy remains largely unchanged, but the analytical framework changes. The growth of globalization and multi-level governance in a globalized world represents a major challenge for theories of democracy and global justice. Justice, of course, is a complex and multidimensional term when applied in an international context. This paper is concerned with justice in its economic (inequality and underdevelopment) and political (the global democratic deficit) guises but recognizes other important dimensions to a theory of global justice, such as the environment and human and cultural rights (Linklater, 1999; Shue, 1999). The political dimensions for the analysis of democracy and justice should reflect what Nancy Fraser (2005) calls a paradigm shift to a 'post Westphalian theory of democratic justice', where justice is seen as a 'parity of participation' and politics determines at which level the struggle for distributive justice is conducted. This mode of philosophical reasoning clearly lends

itself to the debates in IPE about the nature of representation that should prevail in, and indeed beyond, the institutions of global economic decision making.

IPE, in large part because of its twentieth-century location within IR scholarship, has tended to focus on the developed, the rich and the powerful of the North at the expense of the developing and the poor of the South. But, since the turn of the century, more and more scholars of IPE have begun to think about the underdeveloped and the poor as part of IPE though not (*pace* Phillips, 2005) with any input from normative political thinkers on key issues such as inequality and justice. However, development issues, IPE and normative philosophy are coming closer together than in the past. It is the growing importance of the development dimension of IPE that is demanding that normative philosophy play a larger role in explaining and advancing the nature of rights and justice in constituencies and forums beyond the level of the national state and especially in developing country contexts.

To illustrate, recent political philosophers such as Charles Beitz, Amartya Sen and Thomas Pogge have played a seminal role in opening up these discussions – basically discussions about the obligations of the rich to the poor – in the late twentieth and early twenty-first centuries. From a cosmopolitan perspective, and recognizing the increasingly interconnected contours and leaky boundaries of a globalizing world, Beitz ([1979] 2000; 1999) has resisted Rawls's (1999) more communitarian notions that distributive justice between societies is neither appropriate nor desirable. Although this is not the place for a discussion of Rawls's *Law of Peoples* (but see Brown, 2002; Martin and Reidy, 2006), Pogge has made a plausible normative argument, if not practical case, that Rawls's 'difference principle' in support of the least advantaged could be extended beyond the confines of the constituent members of the modern state system.

This line of argument has been taken further by Pogge (2001; 2002; 2005) in his work on issues of justice, poverty and human rights and the challenge to the automatic entitlement of the affluent developed world. Touching directly on core issues in IPE, Pogge demonstrates how environmental degradation and developing world poverty (especially famine) stand in a direct causal relationship with the affluent, developed world's lifestyle excess. Sen (1999), in his discussion of the importance of freedom, justice and responsibility in development, advances similar arguments to Pogge – although they would certainly disagree about the policy implications of their analyses. Sen, showing his economic credentials, favours market solutions (*real* free trade) rather than Pogge's welfarist approach which outlines a more interventionist, intricate redistributive set of tax proposals.

Yet it remains, from the point of view of the affluent Western developed states and their citizens, that most IPE draws its mode of thinking from everyday life. For example, if we consider the contemporary global trade agenda, the contours of which are contested on a North–South basis, then neoclassical economic trade theory privileges the norms of the dominant 'abstracted rationality'. But most developing country policy makers privilege a norm of 'contextual rationality' and the embedded political contexts of policy making (see Lindblom, 1990 and Brint, 1994 for a discussion of competing rationalities along these lines). In policy terms this frequently leads to different positions that reinforce North–South divisions. An unwillingness by many developing country policy makers to accept the precepts of abstracted rationality often means that their claims are not treated seriously in international decision-making environments.

In fact, as Arendt (1973, pp. 269–84) would have it, they often seem to lose 'the right to have rights' in these processes because the mode of reasoning they operate is not in conformity with abstracted rationality. For much of the post-Second World War era, the abstracted rationality that underpinned international economic decision making rendered the governance structures of the world economy immune from their (mainly Southern) critics, and hence resistant to a wider spread of democratic control (see Cox, 1997). Efforts to overcome injustice require a rebalancing of the relationship between abstracted and contextual rationality. This is a task for the philosopher. It may be a scholarly enterprise but it casts massive policy shadows. We are unlikely to move many debates in IPE forward – especially of a North–South development nature – without establishing contextual rationality as a legitimate policy norm.

But competing rationalities are not the only issue determining the degree to which justice questions are heard in appropriate arenas. By far the strongest determinant of inclusion and exclusion of the developing world in the global policy-making process remains the asymmetrical structure of the state system. Notwithstanding recent assaults on it, the Westphalian state system remains the key factor in the institutionalization of arenas for addressing justice questions and, despite recent and increasingly sophisticated cosmopolitan political theory (*pace* Held, 2005; Caney, 2005; Dryzek, 2006), we have yet to establish an understanding of justice at the global level in a practically meaningful way. Indeed, the real importance of cosmopolitan theory may be less as a means of institutional design for global governance *per se* than (*pace* Habermas, 2001) as an ethical discourse or way of thinking within which to locate the discussion of governance beyond the state. Indeed, its great strength is that it inserts ethics into the discussion of the global economy in a manner not present in much of the technical economic literature and analysis of the structures of global economic governance of the closing stages of the twentieth century (see Brassett and Higgott, 2003; Brassett and Bulley, 2006).

As globalization has attenuated the hold of democratic communities over the policy-making process within the territorial state, the language of democracy and justice has taken on a more important rhetorical role in a global context. As the nation-state as a vehicle for democratic engagement has become problematic, the demand for democratic engagement at the global level has become stronger. But this, of course, is difficult to secure. The fair and democratic application of procedural rules in a world of asymmetrical states will always be difficult to secure. This will continue to be the case notwithstanding the growing salience of other non-state actors (NGOS, global social movements and other civil society actors) that now claim roles in global decision-making processes (see Mathews, 1997; Lynch, 1998; Florini, 2003).

Governance and legitimacy

The developments of widespread civil society activity in the global domain have raised the stakes for the legitimacy of existing global economic governance structures, which can no longer be justified in the way that they were for much of the post-Second World War era. In that period the understanding of governance that prevailed for the international economic institutions was one which saw them as effective and efficient deliverers of collective goods – what I call 'global governance I' (GGI). The instruments of

governance (especially the international financial institutions) did not envisage a major role in the determination and allocation of the collective goods they provided for their recipients. Global governance was less a question of a theory of representation and accountability than a technical one of efficient allocation.

Globalization, and the growing demand for representation beyond the territorial state, has changed this. A multilateral economic institution such as the WTO needs not only to be an effective and efficient instrument of policy making beyond the territorial state (GGI); it needs also to diminish what is widely agreed to be a democratic deficit that arises from the two-speed process of the rapid globalization of the world economy, on the one hand, and the much slower globalization of the global polity, on the other. It needs a theory of global governance with a focus on the provision of representation, accountability and justice – what we might call global governance II (GGII).

Of course, whether existing multilateral institutions can, or should, play the major role in bridging the gap between GGI and GGII is an increasingly moot point in the early twenty-first century. That they should underwrite and enhance co-operation in the interests of all participants in an accountable and transparent manner – and provide problem-solving strategies for new stresses on the system as they emerge – seems a fairly unproblematic assertion. But because power asymmetries rather than procedural fairness remain the key to explaining outcomes in institutions like the WTO, especially in the negotiations process, it, like other institutions, is seen by many as less a vehicle for the delivery of 'global public goods' than what might best be seen as 'club goods' serving interests in the developed world first. The failure of the Doha round of multilateral trade negotiations in 2006 occurred in part because the world's poor are becoming increasingly resistant to what they see as sub-optimal and asymmetrical deals imposed by the world's rich. The relationship between rule makers and rule takers is changing. Those affected by the decisions taken in global economic institutions are increasingly vocalizing their assumptions that they should have a right to participate in making them.

Thus the next step must be the enhancement of GGII. These steps may need to be modest. They will certainly not appeal to the radical transformationalists of the anti-globalization movements (see for example www.globalsouth.org), nor will they deliver an ideal-type global democracy (with universalist participation) predicated on the globalizing of the 'domestic democratic analogy' present in much cosmopolitan political theory (such as Held, 2005). Rather, and more modestly, it might make more sense to improve our ability to enhance, and in some instances consolidate, existing or nascent patterns of *accountability* as a route to legitimacy. There are no serious institutionalized systems of checks and balances at the global level. And, as we have seen in the twenty-first century, those institutional constraints that do exist have little purchase on the behaviour of major powers (especially a hegemon), should they choose to ignore them. Thus the problems we have to address if we are to enhance GGII are:

- How do we disaggregate the notions of democracy and accountability? That is, can we identify some principles of accountability that do not necessarily emanate from an essentially liberal, Western, 'domestic' theory of democracy?
- How do we – can we – separate the notion of legitimacy from accountability?
- Put as a question, is it possible to think about global accountability when there is no global democracy?

While being 'accountable' assumes the presence of 'norms of legitimacy', this is not the same as being democratic. In much contemporary analysis of global governance, democracy and accountability have, all too often and all too wrongly, been conflated. In the context of a given state, direct democracy, with full participation, is held up as the ideal type of representative government (see Dahl, 1999). Global governance is never going to approximate this ideal type. Theorists of global governance need to think of a situation that, while sub-optimal to this ideal type, nevertheless makes provision for a meaningful degree of accountability. Grant and Keohane (2005) offer us two basic kinds of accountability – accountability as participation and accountability as delegation.

In theory, institutions such as the IMF and the World Bank are accountable to the governments that have created them and, in a widening participatory mode, to the developing countries they aim to assist. It is in this second sense, with the implications of the empowerment of traditionally weaker actors, that accountability as participation and representation, and by extension democracy, is often conflated and confused. It is this confusion that, often wrongly, leads us to challenge the legitimacy of the international institutions. Can they be legitimate, and in part accountable, without necessarily being democratic by the yardstick of the 'domestic analogy'?

The rhetoric of illegitimacy has become increasingly powerful in the hands of the anti-globalization movements (and also with the increasingly strident economic nationalists in the USA, we might add). This is especially the case in the context of the multilateral trade regime. In many ways the international institutions are indeed accountable, and often more accountable than many of the NGOs that criticize them. But they are not accountable in a way that satisfies those who equate legitimacy with democratic theory underwritten by the domestic analogy.

For GGII to be meaningful – by which I mean acceptable to a large group of principal actors in global politics and also reinforcing of GGI – it has to understand the fundamental differences between the currently unrealizable conception of cosmopolitan global democratic governance, on the one hand (the globalized domestic analogy), and systems of accountability that may not be fully democratic in the domestic sense, but that can have real political purchase in global public policy, on the other. Claims to 'legitimacy', or rather the absence of it, in global public policy are frequently a euphemism for the rejection by the weaker actors of the asymmetrical structure of power in the contemporary global order. This is an unfortunate political reality and it is for this reason that developing countries have a strong preference for formalized, rule-governed processes of decision making within an institution that has a specifically defined mission underwritten by judicial instruments, rather than the informal, less prescriptive and flexible approaches favoured by developed countries. Where judicial instruments are not available, other, often less effective, calculations must be brought to the fore, especially 'global public opinion' as articulated by increasingly influential non-state actors in civil society.

Securing accountability is becoming increasingly complex as the certainties of a Westphalian order drift away. For too long, and drawing on the domestic analogy, accountability has been equated with *democratic* accountability, which in turn has been equated with widening participation. In order to take GGII forward, we should not dream of instant, and unattainable, global democracy but, as Grant and Keohane argue

(2005, p. 21), try 'to figure out how to limit the abuse of power in a world with a wide variety of power-wielders and without a centralized government'. As they go on to say, 'if we focus on the conditions for the operation of a variety of accountability mechanisms rather then pure democratic accountability, we will see opportunities for feasible actions to improve accountability'.

However, to date, there is little consensus on how to develop meaningful conceptions of accountability and representation that provide, or recreate, the necessary legitimacy for the international institutions that will be responsible for delivering global public goods to the world's rule takers. Institutional rule makers (from the developed world) tend to privilege GGI, while rule takers (developing country government officials and civil society actors) tend to privilege GGII. Thus the possible difference between success and failure in any negotiation between the rule makers and the rule takers will revolve around the degree to which the principles of justice and fairness underwrite any bargain. While it may seem irrational to proponents of 'abstracted rationality', 'justice as process' is every bit as important for the mostly developing world rule takers as is 'justice as outcome'.

Enhancing our capabilities in these areas should be at the core of a research agenda to enhance GGII. This is not abstract political theorizing. Successful, albeit gradually enhanced, such activities will eventually cast massive policy shadows. Without them, the longer-term legitimacy of international economic institutions such as the WTO will come under greater challenge than is even the case in the early twenty-first century. What the relationship between GGI and GGII reveals is the inseparable connection between justice, process and democracy at the global level as much as at the domestic. GGI alone cannot deliver justice. Political theorists have yet to find a feasible of way of linking GGI and GGII in the contemporary global order. As Cecilia Albin (2001 and 2003) has demonstrated, 'process' questions are as important as 'outcome' questions; procedural fairness is a necessary, if not sufficient, condition to guarantee outcome fairness in multilateral trade negotiations. They are first-order questions for the early twenty-first century at the interface of normative theory and IPE as practice.

Similarly, 'continental' theories of action, especially communicative action and theories of deliberative democracy of the kind advanced by Habermas, are also to be found in discussions of how to enhance the legitimacy of the decision-making process within bodies like the WTO (Kapoor, 2005). Interestingly, international economic institutions in general are beginning to take seriously the potential utility of deliberative democracy as a way of revealing the manner in which they have traditionally operated, primarily by the conventions of power politics delivering coerced decision making, false consensus and inequitable outcomes. Enhanced deliberative democracy is being explored, too, as a way to mitigate power asymmetries and help secure a fairer bargaining process than, for example, currently exists within the context of multilateral trade negotiations.

This section has tried to suggest that there are increasingly important linkages between IPE and some elements of contemporary normative political philosophy. Specifically, discussions of globalization – the substantive research core of contemporary IPE – have stirred normative scholarly interest in how to combat global inequalities and develop a more just international order. The unequal distribution of wealth is

central to the IPE–normative theory nexus and most contemporary analysis. Similarly, this nexus assumes a strong connection between the search for a just international order and the need to overcome the democratic deficit in international relations. Implicit in this relationship from an IPE perspective is the increasing interplay between the 'system of states' and emerging global civil society.

This interplay leads us to a major area of unsettled enquiry. Will it lead to a more cosmopolitan form of international governance? Much cosmopolitan theory relies on institutional design to establish global governance with the best elements of GGI and GGII. Yet this alone is not sufficient. It has yet to find a way to harness in a constructive manner those emerging social forces of global civil society clamouring for enhanced global democracy. In order that these forces do not simply default to being global interest groups we require that a 'richer understanding of democracy be realized through the legal institutionalization of free and equal access to a global public sphere' (Bohman, 1999; but see also the essays in Ougaard and Higgott, 2002). This is a question that requires new advances in both empirical and normative enquiry.

Conclusion

> International political theory stands in relation to the growth of the global political economy roughly where the political theory of the nation state stood in relation to the development of the modern industrial economy in the mid-nineteenth century . . . It required most of a century for the political theory of the democratic state to catch up with political-economic change.
>
> Charles Beitz, 'Social and cosmopolitan liberalism', p. 515

This chapter has provided a synoptic insight into the scholarship of IPE. As any review must inevitably be, it is partial. But, conscious of the need to provide a companion to philosophy, it has tried to identify those elements of IPE which might be expected to be of interest to philosophers, hence its focus on the intellectual origins, contemporary modes of thought and methodological issues of contest that beset IPE as a field of enquiry. This latter discussion has by no means been exhaustive. Rather it has identified what might be thought of as the bones of a research agenda for the early twenty-first century in which both the normative theorist and the IPE scholar must be collectively, as opposed to separately, engaged. This is the case, it has been argued, because the emerging global conversation about global (economic) governance needs to be understood not only as the pursuit of effective and efficient problem solving but also as a normative, indeed explicitly ethical, approach to the advancement of a more just agenda of global economic management.

Indeed, the central normative question of our time under conditions of globalization – how do we enhance a more equitable system of distribution and ensure greater representation of those affected by economic globalization when the necessary political institutional frameworks to negotiate distribution and representation are not agreed? – is one that requires the skills of both the scholar of international political economy and the normative political theorist. As Beitz implies, there is a job to be done. Let us hope that this too does not take 'a century'.

Further reading

The literature of IPE is voluminous both as a theoretical enterprise and as a series of issue-specific policy areas. A tour of the theoretical literature could start with the fiftieth anniversary edition of *International Organization* (Katzenstein et al., 1998.) This edition reflects the predominant liberal-interdependence theoretical disposition in North American IPE. Gilpin (2001) is the quintessential realist statement in IPE; Cox (1987) and Gill and Law (1998) remain the strongest Marxist elaboration of IPE and Strange (1998) offers the major non-Marxist stucturalist perspective. Of the numerous 'readers' in IPE/GPE that offer a selection of readings across this theoretical spectrum, see *inter alia*, Crane and Amawi (1991), Frieden and Lake (2000), Stubbs and Underhill (2005), Ravenhill (2005) and Palan (2000).

The centrality of globalization to contemporary IPE is extensively explored by Cerny (1995), Stiglitz (2002), Scholte (2005) and in the various edited collections by Held (2005a), Held et al. (1999), Held and McGrew (2002), Higgott and Payne (2000) and Kesselmaan (2005). 'Alter-globalization' views are reflected in the work of authors like Bello (2002), Dehesa (2006) and civil society organizations such as Focus on the Global South (http://focusweb.org) and Third World Network (www.TWN.org).

The increasingly important relationship between globalization and global governance, now a central theme of IPE, is explored *inter alia* in Hewson and Sinclair (1999), Held and McGrew (2000), Keohane (2002), Ougaard and Higgott (2002), Kahler and Lake (2003), Weiss (2003), Barnett and Duvall (2005) and Grande and Pauly (2005). Studies of key issue areas, looked at through IPE lenses, can be found in many of the general works listed above and in more specific works on trade and development (Chang, 2003; Stiglitz and Charlton, 2006); finance (Germain, 1997; Strange, 1998; Woods, 2006), regionalism (Breslin et al., 2002; Katzenstein, 2005) and the international institutions (Ruggie, 1998; Diehl, 2001; Martin, 2006).

References

Albin, C.: *Justice and Fairness in International Negotiation* (Cambridge: Cambridge University Press, 2001).

—: 'Negotiating international cooperation', *Review of International Studies*, 29, 3 (2003), 365–85.

Apter, D.: 'Structure, contingency and choice: a comparison of trends and tendencies in political science', in *Schools of Thought: Twenty-Five Years of Interpretative Social Science*, ed. J. W. Scott and D. Keates (Princeton, NJ: Princeton University Press, 2002).

Arendt, H.: *The Origins of Totalitarianism* (New York: Harcourt Brace, 1973).

Ashley, R. and Walker, R. B. J.: 'Speaking the language of exile: dissident thought in international studies', Special Issue, *International Studies Quarterly*, 34, 3 (1990).

Barnett, M. and Duvall, R., eds: *Power in Global Governance* (Cambridge: Cambridge University Press, 2005).

Basu, K.: 'Introduction', in *Readings in Political Economy*, ed. K. Basu (Oxford: Blackwell, 2003).

Beitz, C.: (2000) *Political Theory and International Relations* (Princeton, NJ: Princeton University Press, 2000; 1st edn, 1979).

—: 'Social and cosmopolitan liberalism', *International Affairs*, 75, 3 (1999), 515–30.
Bello, W.: *De-globalisation: Ideas for a New World Economy* (London: Zed Press, 2002).
Bhagwati, J.: *In Defence of Globalisation* (Cambridge, Mass.: MIT Press, 2004).
Bohman, J.: 'International regimes and democratic governance: political equality and influence in global institutions', *International Affairs*, 75, 3 (1999), 499–515.
Bohman, J. and Drahos, P.: *Global Business Regulation* (Cambridge: Cambridge University Press, 2000).
Braithwaite, J. and Drahos, P., *Global Business Regulation* (Cambridge: Cambridge University Press, 2000).
Brassett, J. and Bulley, D.: 'Ethics in world politics: cosmopolitanism and beyond', *International Politics*, 44, 1 (2006), 1–17.
Brassett, J. and Higgott, R.: 'Building the normative dimensions of a global polity', *Review of International Studies*, 29 (Summer) (2003), 29–55.
Breslin, S. et al., eds: *New Regionalism in the Global Political Economy* (London: Routledge, 2002).
Brint, S.: *In the Age of Experts: The Changing role of Professionals in Politics and Public Life* (Princteon, NJ: Princeton University Press, 1994).
Brown, C. J.: 'The construction of a realist utopia: John Rawls and international political theory', *Review of International Studies*, 28, 1 (2002), 5–22.
Caney, S.: *Justice Beyond Borders: A Global Political Theory* (Oxford: Oxford University Press, 2005).
Caporaso, J. and Levine, D.: *Theories of Political Economy* (New York: Cambridge University Press, 1992).
Cardoso, F. H. and Falleto, E.: *Dependency and Development in Latin America* (Berkeley: University of California Press, 1979).
Cerny, P.: 'Globalisation and the changing logic of collective action', *International Organization*, 49, 4 (1995), 595–625.
—: 'Paradoxes of the competition state: the dynamics of political globalisation', *Government and Opposition*, 32, 1 (1997), 251–74.
Chang, Ha-Joon: *Globalization, Economic Development and the Role of the State* (London: Zed Books, 2003).
Cohn, J.: 'What did political science forget about politics?' *The New Republic*, 25 October (1999), 25–31.
Cox, R.: 'Ideologies and the new international economic order: reflections on some recent literature', *International Organization*, 32, 2 (1979), 257–302.
—: 'Social forces, states and world orders: beyond international relations theory', *Millennium: Journal of International Studies*, 10, 2 (1981), 126–55.
—: *Power Production and World Order* (New York: Columbia University Press, 1987).
—: 'Democracy in hard times: economic globalization and the limits to liberal democracy', in *The Transformation of Democracy?* ed. A. McGrew (Cambridge: Polity Press, 1997).
Crane, G. T. and Amawi, A., eds: *The Theoretical Evolution of International Political Economy: A Reader* (London: Oxford University Press, 1991).
Dahl, R.: *Modern Political Analysis* (Englewood Cliffs, NJ: Prentice-Hall, 1962)
—: 'Can international organisations be democratic?' in *Democracy's Edge*, ed. I. Shapiro and C. Hacker Gordon (Cambridge: Cambridge University Press, 1999).
de la Dehesa, G.: *Winners and Losers in Globalization* (Oxford: Blackwell, 2006).
Devetak, R. and Higgott, R.: 'Justice unbound? Globalisation, states and the transformation of the social bond', *International Affairs*, 75, 3 (1999), 515–30.
Diehl, P. F., ed.: *The Politics of Global Governance: International Organisations in an Interdependent World* (Boulder, Col.: Lynn Reinner, 2001).

Dryzek, J.: *Deliberative Global Politics: Discourse and Democracy in a Divided World* (Cambridge: Polity Press, 2006).

Eichengreen, B.: 'Dental hygiene and nuclear war: how international relations looks at economics', *International Organization*, 52, 4 (1998), 993–1012.

Fine, B.: 'The triumph of economics: "Rationality can be dangerous to your reasoning" ', in *Virtualism: A New Political Economy*, ed. J. G. Carrier and D. Miller (New York: Berg, 1998).

Finnemore, M. and Sikkink, K.: 'International norms and political change', *International Organization*, 52, 4 (1998), 887–918.

Florini, A.: *The Third Force: The Rose of Transnational Civil Society* (Tokyo: Japan Center for International Exchange/Carnegie Endowment, 2003).

Fraser, N.: 'Democratic justice in a globalising age: Thematizing the problem of the frame', in *Varieties of World Making: Beyond Globalization*, ed. N. Karagiannis and P. Wagner (Liverpool: Liverpool University Press, 2005).

Frieden, J. A. and Lake, D., eds: *International Political Economy: Perspectives on Global Power and Wealth* (London: Routledge, 4th edn, 2000).

Friedman, T.: *The Lexus and the Olive Tree* (New York: Harper Collins, 1999).

Gamble, A.: The new political economy', *Political Studies*, 43, 3 (1996), 516–30.

Germain, R.: *The International Organisation of Credit: States and Global Finance in the World Economy* (Cambridge: Cambridge University Press, 1997).

Gill, S., ed.: *Gramsci, Historical Materialism and International Relations* (Cambridge: Cambridge University Press, 1993).

—: *Power and Resistance in the New World Order* (Basingstoke: Palgrave Macmillan, 2002).

Gill, S. and Law, D.: *The Global Political Economy: Perspectives, Problems and Policies* (Baltimore, Md.: Johns Hopkins University Press, 1988).

Gilpin, R.: *Global Political Economy: Understanding the International Economic Order* (Princeton, NJ: Princeton University Press, 2001).

Goodin, R. and Pettit, P., eds: *A Companion to Contemporary Political Philosophy* (Oxford: Blackwell (1995).

Goodin, R. and Tilly, C., eds: *Oxford Handbook of Contextual Political Analysis* (Oxford: Oxford University Press, 2006).

Grande, E. and Pauly, L., eds: *Complex Sovereignty: Reconstituting Authority in the 21st Century* (Toronto: University of Toronto Press, 2005).

Grant, R. W. and Keohane, R. O.: 'Accountability and the abuses of power in world politics', *American Political Science Review*, 99, 1 (2005), 17–28.

Greico, J.: 'Anarchy and the limits of cooperation: a realist critique of the newest liberal institutionalism', *International Organization*, 42, 3 (1988), 485–508.

Habermas, J.: *The Post National Constellation* (Cambridge: Polity Press, 2001).

Heilbroner, R. and Milberg, W.: *The Crisis of Vision in Modern Economic Thought* (Cambridge: Cambridge University Press, 1995).

Held, D.: *Global Covenant: The Social Democratic Alternatives to the Washington Consensus* (Cambridge: Polity Press, 2005).

— ed.: *Debating Globalization* (Cambridge: Polity Press, 2005a).

Held, D. and McGrew, A., eds: *Governing Globalisation: Power, Authority and Global Governance* (Cambridge: Polity Press, 2000).

— eds: Globalisation/Anti-globalisation (Cambridge: Polity Press, 2002).

Held, D., McGrew, A., Goldblatt, D. and Perraton, J.: *Global Transformations: Politics, Economics and Culture* (Cambridge: Polity Press, 1999).

Helleiner, E., *States and the Re-emergence of Global Finance: From Bretton Woods* to the *1990s* (Cambridge: Cambridge University Press, 1994).

Hewson, M. and Sinclair, T., eds: *Approaches to Global Governance Theory* (Albany: State University of New York Press, 1999).

Higgott, R. A.: 'Economics, politics and (international) political economy: the need for a balanced diet in an era of globalisation', *New Political Economy*, 4, 1 (1999), 23–36.

—: 'Contested globalisation: new normative approaches', *Review of International Studies*, 26 (December) (2000), 131–53.

—: 'US foreign economic policy and the securitisation of globalisation', *International Politics*, 41 (Summer) (2004), 147–75.

Higgott, R. A. and Phillips, N.: 'Challenging triumphalism and convergence: the limits of global liberalisation in Asia and Latin America', *Review of International Studies*, 26, 3 (2000), 359–79.

Higgott, R. A. and Payne, A. J., eds: *The New Political Economy of Globalisation*, 2 vols (Aldershot: Edward Elgar, 2000).

Hirschmann, A. O.: *National Power and the Structure of Foreign Trade* (Berkeley: University of California Press, 1945).

—: *The Passions and the Interests* (Princeton, NJ: Princeton University Press, 1977).

—: 'Against parsimony: three easy ways of complicating some categories of economic discourse', in *Rival Views of Market Society and Other Recent Essays*, ed. A. O. Hirschmann (New York: Viking Books, 1986).

Hollis, M. and Smith, S.: *Explanation and Understanding in International Relations* (Oxford: Clarendon Press, 1991).

Kahler, M. and Lake, D. A., eds: *Governance in a Global Economy: Political Authority in Transition* (Princeton, NJ: Princeton University Press, 2003).

Kapoor, I.: 'Participatory development, complicity and desire: deliberative democracy and the WTO', *Review of International Political Economy*, 113 (2005), 522–41.

Katzenstein, P., *A World of Regions: Asia and Europe in the American Imperium* (Ithaca, NY: Cornell University Press, 2005).

Katzentsein, P., Keohane, R. O. and Krasner, S.: 'International organization and the study of world politics', *International Organization*, 52, 4 (1998), 463–85.

Keck, M. and Sikkink, K.: 'Transnational advocacy networks in international and regional politics', *International Social Science Journal*, 51 (1999), 89–101.

Keohane, R.: 'International institutions: two approaches', *International Studies Quarterly*, 32, 4 (1988), 379–96.

—: *International Institutions and State Power* (Boulder, Col.: Westview Press, 1989).

—: *Power and Governance in a Partially Globalised World* (Boulder, Col.: Westview Press, 2002).

Keohane, R. and Milner, H., eds: *Internationalization and Domestic Politics* (New York: Cambridge University Press, 1996).

Keohane, R. and Nye, J., eds: *Transnational Relations and World Politics* (Cambridge, Mass.: Harvard University Press, 1970).

—: *Power and Interdependence: World Politics in Transition* (Boston, Mass.: Little Brown, 1977).

Kesselman, M.: *The Politics of Globalisation: A Reader* (New York: Houghton Mifflin, 2006).

Krugman, P.: *The Return of Depression Economics* (London: Allen Lane, The Penguin Press, 1999).

Laponce, J.: 'Drunken walk or functional evolution', in *Contemporary Empirical Political Theory*, ed. K. R. Monroe (Los Angeles: University of California Press, 1997).

Lindblom, C.: *Inquiry and Change* (New Haven, Conn.: Yale University Press, 1990).

Linklater, A.: 'The evolving spheres of international justice', *International Affairs*, 75, 3 (1999), 473–82.

Luttwak, E.: *Turbo Capitalism: Winners and Losers in the Global Economy* (London: Weidenfield and Nicholson, 1998).

Lynch, C.: 'Social movements and the problem of globalization', *Alternatives*, 23, 2 (1998), 149–73.
Martin, L.: 'International economic institutions', in *The Oxford Handbook of Political Institutions*, ed. R. Rhodes, S. Binder and B. Rockman (Oxford: Oxford University Press, 2006).
Martin, L. and Simmons, B.: 'Theories and empirical studies of international institutions', in P. Katzentsein, R. O. Keohane and S. Krasner, *International Organization*, 52, 4 (1998), 729–58.
Martin, R. and Reidy, D., eds: *Rawls's Law of Peoples: A Realistic Utopia* (Oxford: Blackwell, 2006).
Mathews, J. T.: 'Power shift', *Foreign Affairs*, (January/February 1997), 50–66.
McGrew, A.: 'From global governance to good governance: theories and prospects of democratizing the global polity', in *The Global Polity*, ed. M. Ougaard and R. Higgott (London: Routledge, 2001).
Milner, H.: 'Rationalizing politics: the emerging synthesis of international, American and comparative politics', in P. Katzentsein, R. O. Keohane and S. Krasner, *International Organization*, 52, 4 (1998), 759–86.
Murphy, C. and Tooze, R., eds: *The New International Political Economy: International Political Economy Yearbook*, vol. VI (Boulder, Col.: Lynn Reinner, 1991).
Ohmae, K.: *The Borderless World* (New York: Free Press, 1990).
Olson, M.: *The Logic of Collective Action* (Cambridge, Mass.: Harvard University Press, 1965).
—: *The Rise and Decline of Nations* (New Haven, Conn.: Yale University Press, 1982).
O'Rourke, K. H. and Williamson J. J.: *Globalization and History: The Evolution of the Nineteenth-Century Atlantic Economy* (Cambridge, Mass.: MIT Press, 1999).
Ougaard, M. and Higgott, R., eds: *Towards a Global Polity?* (London: Routledge, 2002).
Palan, R., ed.: *Global Political Economy* (London: Routledge, 2000).
Phillips, N., ed.: *Globalizing International Political Economy* (Basingstoke: Palgrave Macmillan, 2005).
Pogge, T., ed.: *Global Justice* (Oxford: Blackwell, 2001).
—: *World Poverty and Human Rights: Cosmopolitan Responsibilities and Reform* (Cambridge: Polity Press, 2002).
—: 'World poverty and human rights', *Ethics and International Affairs*, 19, 1 (2005), 1–7.
Prebisch, R.: *Towards a Dynamic Development Policy in Latin America* (New York: United Nations, 1963).
Ravenhill, J., ed.: *Global Political Economy* (Oxford: Oxford University Press, 2005).
Rawls, J.: *The Law of Peoples* (Cambridge, Mass.: Harvard University Press, 1999).
Reinecke, W.: *Global Public Policy: Governing without Government* (Washington: Brookings, 1998).
Riker, W.: 'Implications from the disequilibrium of majority rule for the study of institutions', *American Political Science Review*, 74, 3 (1980), 432–46.
Risse, T.: 'Transnational actors, networks and global governance', in *Handbook of International Relations*, ed. W. Carlsnaes, T. Risse and B. Simmons (London: Sage, 2002).
Rodrik, D.: *Has Globalization Gone Too Far?* (Washington, DC: Institute for International Economics, 1998).
Rosenau, J.: 'The dynamics of globalization: toward an operational formula', *Security Dialogue*, 27 (1997), 247–62.
Ruggie, J. G.: 'International regimes, transactions and change: embedded liberalism in the post war economic order', in S. Krasmer, ed., *International Regimes* (Ithaca, NY: Cornell University Press, 1983).
—: 'At home abroad, abroad at home: international liberalisation and domestic stability in the new world economy', *Millennium: Journal of International Studies*, 24, 3 (1995), 507–26.

—: *Constructing the World Polity: Essays on International Institutionalisation* (London: Routledge, 1998).
Scholte, J. A.: *Globalization: A Critical Introduction* (Basingstoke: Palgrave Macmillan, 2005).
Sen, A.: 'Rational fools: a critique of the behavioural foundations of economic theory', *Philosophy and Public Affairs*, 6, 4 (1997), 713–44.
—: *Development as Freedom* (Oxford: Oxford University Press, 1999).
Shue, H.: 'The global environment and international inequality', *International Affairs*, 753 (1999), 531–46.
Sinclair, T. J.: 'Reinventing authority: embedded knowledge networks and the new global finance', *Environment and Planning C: Government and Policy*, 18, 4 (2000), 487–502.
Slaughter, A. M.: *A New World Order* (Princeton, NJ: Princeton University Press, 2004).
Spero, J.: *The Politics of International Economic Relations* (New York: St Martins Press, 1981).
Spruyt, H.: *The Sovereign State and Its Competitors: An Analysis of Systems Change* (Princeton, NJ: Princeton University Press, 2004).
Stiglitz, J.: (1998) 'Towards a new paradigm for development: strategies, policies and processes', *The Prebisch Lecture*, Geneva, UNCTAD, 19 October 1998. To be found at http://www.world bank.org/html/etme/jssp101998.htm.
—: *Globalisation and Its Discontents* (London: Penguin Allen Lane, 2002).
Stiglitz, J. and Charlton, A.: *Fair Trade for All: How Trade Can Promote Development* (Oxford: Oxford University Press, 2006).
Stone, D., ed.: *Banking on Knowledge: The Genesis of the Global Development Network* (London: Routledge, 2000).
—: 'Knowledge networks and policy expertise in the global polity', in *Towards a Global Polity?* ed. in M. Ougaard and R. Higgott (London: Routledge, 2002).
Strange, S.: 'International relations and international economics: a case of mutual neglect', *International Affairs*, 46, 2 (1970), 304–15.
—: *States and Markets* (London: Frances Pinter, 1988).
—: *Mad Money* (Oxford: Blackwell, 1998).
Stubbs, R. and Underhill, G., eds: *Political Economy and the Changing Global Order*, 3rd edn (Toronto: Oxford University Press, 2005).
Viner, J.: 'Power versus plenty as objectives of foreign policy in the seventeenth and eighteenth centuries', *World Politics*, 1, 1 (1948), 1–29.
Wade, R.: 'Globalization and its limits: reports of the death of the national economy are greatly exaggerated', in *National Diversity and Global Capitalism*, ed. S. Berger and R. Dore (Ithaca, NY: Cornell University Press, 1996).
—: 'Choking the South', *New Left Review*, 38 (March–April) (2006), 113–27.
Wade, R. and Veneroso, F.: 'The high debt model versus the Wall Street–Treasury–IMF complex', *New Left Review*, 31 (March–April) (1998), 3–23.
Walker, R. B. J.: *Inside/Outside: International Relations as Political Theory* (Cambridge: Cambridge University Press, 1993).
Wallace, W.: 'Truth and power, monks and technocrats: theory and practice in international relations', *Review of International Studies*, 22, 3 (1996), 301–21.
Wallerstein, I.: *The Capitalist World Economy* (Cambridge: Cambridge University Press, 1979).
Watson, M.: *Foundations of International Political Economy* (Basingstoke: Palgrave Macmillan, 2005).
Weber, M.: 'Engaging globalisation: critical theory and global political change', *Alternatives*, 27, 2 (2002), 301–25.
Weiss, L.: *The Myth of the Powerless State* (Ithaca, NY: Cornell University Press, 1998).
— ed.: *States in the Global Economy: Bringing Domestic Institutions Back In* (Cambridge: Cambridge University Press, 2003).

Wendt, A.: *Social Theory of International Politics* (Cambridge: Cambridge University Press, 1999).

Williamson, J.: 'What Washington means by policy reform', in *Latin American Adjustment, How Much Has Happened?* ed. J. Williamson (Washington, DC: Institute for International Economics, 1990).

Wolf, M.: *Globalization Works* (Ithaca, NY: Cornell University Press, 2004).

Woods, N.: *The Globalizers: The World Bank, the IMF and their Borrowers* (Ithaca, NY: Cornell University Press, 2006).

Zysman, J.: 'The myth of the global economy: enduring national foundations and emerging regional realities', *New Political Economy*, 1, 2 (1996), 157–84.

Chapter 7

Political Science

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Social reformers necessarily proceed, after the fashion of Rousseau (1762, bk. 1), 'taking men as they are and laws as they can be'. Thus it has been since the founding of political science in the nineteenth century (Collini et al., 1983). But the lessons of the behavioural revolution in political science are that taking people 'as they are' might be more constraining that we ever imagined; and the lessons of the policy sciences are that there are far fewer ways that institutions 'can be' than we ever supposed. All told, it might make more sense to start with the limited number of institutional options, rather than starting with a value-driven wish list and searching for institutions that might more or less fill that bill.

Many of the most important lessons that contemporary social science holds for contemporary political philosophy concern the limits, and possibilities, of institutional design (March and Olsen, 1984; 1986; 1989; 1995; Weaver and Rockman, 1993; Goodin, 1996a,b). We cannot propound just any values we like, confident that an institutional shell can be found for pursuing all of them simultaneously. Sometimes we cannot even find satisfactory institutions for pursuing each of them separately. Even something as presumably straightforward as economic redistribution is harder to institutionalize than we ever imagined, with notionally progressive income taxes turning out to be mildly regressive in their real incidence (Pechman, 1974), and notionally universal social services turning out to benefit the middle classes rather more than the poor (Goodin and Le Grand, 1987).

Putting politics first might highlight new values, as well. When working down from first principles, the social centrality of a principle like 'protecting the vulnerable' might not be immediately apparent; but it certainly is when working from the other end, reflecting upon the fair distribution of radiological risks from nuclear power plants and generalizing outwards from that (Goodin, 1982a, p. 214; Goodin, 1985).

In this chapter, I shall concentrate upon the contribution to political philosophy that can come from mainstream, empirically oriented political science and its many subdisciplines. In concentrating upon the contribution of empirical political science, I do not mean to denigrate the role of normative political theory. That remains a thriving subdiscipline within political science. Its contributions to contemporary political philosophy can safely be ignored in this chapter, precisely because they

so thoroughly permeate so many of the others. The contributions that the more empirical sides of the discipline can make, although perhaps less obvious, might be no less significant.

According to the self-conception of the discipline of empirical political science, its distinctive focus is upon 'power' – its distribution and its distributional consequences. Politics, in Harold Lasswell's (1950) famous phrase, is the study of 'who gets what, when, how'. The question of 'how' is to be answered by studying the distribution and interplay of power and influence in all their myriad forms. Therein lies the essence of 'modern political analysis' (Dahl, 2002).

That disciplinary self-conception fixes our initial focus upon the intentional actions of particularly powerful individual agents. Power is first and foremost the 'production of intended effects'. But intentions ossify into structures. These artefacts come to have a life all their own and, in a way, even to exercise power (or at least constrain others in their attempts to exercise power) all on their own. For one famous example, Robert Moses intentionally built the underpasses on the Long Island Expressway too low to allow passage of buses, which might carry poor blacks to prosperous white suburbs: the structures and consequent constraints on movement of bus-riding New Yorkers remain, even after Moses was long in his grave (Winner, 1980, pp. 22–3; Ward, 1987, pp. 604–5).

Much can be learnt from studying the internal logic of certain social structures, abstracting from any individuals' intentions. Given the problems to which Wittfogel's (1957) 'hydraulic society' constitutes a solution – problems of governing water supply in arid regions – 'oriental despotism' is arguably the inevitable consequence. Given the way military technology unfolded in the early modern age, the modern state was arguably the inevitable consequence (Mann, 1986; 1993). And Marx famously claimed that the socio-legal and political superstructure of a society is fully determined by the economic base and the technology of the mode of production contained within it (Cohen, 1978, ch. 6).

Even in the most structurally determinist theory, however, there remains substantial scope for the exercise of human agency. 'Analytical Marxists' employ very individualistic tools of neoclassical micro-economics to show how many central Marxian tenets derive from collective action problems and unequal bargaining regimes (Elster, 1985; Roemer, 1982; 1986). Furthermore, where do the structures themselves come from except social action, which in the last analysis arguably always comes down to the actions and interactions of natural individuals (Goodin, 2000; see further chapter 1 above)?

That is not to imply that the outcome was intended. Many social structures and outcomes are unintended, the accidental effects of various agents pulling in their own directions and for their own reasons (Merton, 1936). Nor is it necessarily to imply that individual actions themselves were 'purposive' in any strong, goal-seeking sense. Still, it seems a fair general characterization of the subject to say that politics is all about agency working through structures, which are themselves just the embodiments of past power plays (Wendt, 1987; Skocpol, 1992; Pierson, 2004). Structures, like history, leave 'holes' that provide the context for human conduct (Burt, 1992; Goodin and Tilly, 2006).

The Operation of Democracy

For all its official macro-sociological concern with the distribution of power and the influence of that on the patterning of social benefits and burdens, contemporary political science concentrates heavily on individual-level behaviour. Furthermore, the focus has been on behaviour in one particular (electoral) setting, which may or may not bear much relation to overall social power or distributional consequences. I shall follow the profession itself in focusing first on voting behaviour, but I shall soon open that out into a larger discussion of the operation of democracy more generally.

Empirical results: voting

There is a certain populist view of democracy, easily parodied and possibly never actually embraced in precisely that form. Still, it remains influential if only as a whipping boy. According to this populist view, political power is supposed to be dispersed to voters who, reflecting deeply upon the issues at stake, form their reasoned, independent judgements of what ought to be done; and all those judgements are then aggregated impartially into an overall social decision (Berelson et al., 1954, ch. 14; cf. Duncan and Lukes, 1963; Riker, 1983).

If that is what democracy requires, there is little chance of realizing that ideal – at least according to the standard interpretation of the results of modern sample surveys of political attitudes and behaviour (Thompson, 1970; cf. Pateman, 1970; 1971). Whereas that model posits reasoned reflection upon the issues, surveys find that only a tiny proportion of voters say they are taking any principled stand on the issues (Converse, 1964, p. 218). Whereas that model posits independent, rational agents, survey researchers standardly claim to find people voting in knee-jerk response either to unexamined group or class loyalties (Berelson et al., 1954) or to their early childhood socialization experiences – the best correlate of the vote, it is often said, is the voter's party identification, the best correlate of which in turn is the parents' party identification (Campbell et al., 1960, ch. 7). Whereas the model of populist democracy requires the impartial aggregation of votes – and a corresponding willingness to weigh all opinions equally and to count everyone else's vote as equal to one's own – survey research shows voters to be intolerant, even of some of the most fundamental prerequisites of democratic politics, including free expression itself (McCloskey, 1964). All this evidence seems to suggest that ordinary people were unfit to discharge their civil functions responsibly – so unfit, indeed, that many commentators took to saying that the stability of democratic institutions presupposes not mass participation but, rather, mass apathy (Almond and Verba, 1963).

Such conclusions depend crucially upon imposing a heavily social-psychological interpretation upon the evidence, however. Sociologists themselves began reacting against such an 'oversocialized conception of man' (Wrong, 1961) and mounting pleas to 'bring men back in' (Homans, 1964) at just about the time political scientists were themselves buying heavily into that model. In recent years, political scientists have come increasingly to share such reservations.

It has long been recognized that there are various other ways of interpreting the central findings that gave rise to models of political socialization in the first place. V. O. Key (1966) argued, in defence of *The Responsible Electorate*, that people vote the same way as their parents, not as automata responding unthinkingly to early childhood programming, but simply because they inherited the same socio-economic lot as their parents: rational reflection on their interests would lead them to the same party-political conclusions as their parents. Or, again, higher levels of political participation among people of higher socio-economic status need not be explained in terms of their greater 'ego strength' (cf. Verba and Nie, 1972; Verba et al., 1978): it might just be that people with more social resources rationally suppose that they stand a better chance of changing social outcomes (Pateman, 1971; 1989, ch. 7; Goodin and Dryzek, 1980).

Upon reanalysis of the survey data upon which that sociological interpretation of voting was based, it seems more likely that, far from being socially or psychologically programmed, voters are rational agents trying the best they can – under decidedly non-ideal conditions – to choose candidates whose policy preferences most nearly match their own (Popkin et al., 1976; Page and Shapiro, 1992). The non-ideal conditions in view derive primarily from the fact that it is perfectly rational for any voter, given how little chance her own vote has of changing the outcome, not to invest heavily in information to enable her to choose precisely the right candidate; and the same is true of every other voter, as well. A certain measure of voter ignorance is therefore perfectly rational. In those circumstances, various shortcuts prove rational, among them fixating on party labels as cues to likely policy positions (Downs, 1957, ch. 7; Lupia and McCubbins, 1998) and voting retrospectively on the basis of experience with a party in power rather than cuing on mere promises (Downs, 1957, ch. 3; Fiorina, 1981).

Flattering though this may be to the rationality of voters, it still leaves them largely unfit to govern directly in the ways that the populist parody prescribes. But it does at least go some way towards underwriting, normatively, the democratic component within models of democratic elitism, canvassed below. Voters are at least capable of making reasoned, independent decisions on issues of broad policy. They are capable of – indeed, they are inclined towards – genuine political reflection, at least within limits.

Note well that in saying that voters are rationally choosing candidates nearest to their own policy preferences, the basis for those policy preferences is left open. There is, specifically, no presumption that voters are egoistically maximizing material benefits for themselves or their families. There is every reason to suppose that in the poll booth, as elsewhere, people would also act on the basis of their commitments both to principles and to other people (Sen, 1977a; Bowles and Gintis, 2006). And in studies of actual voting behaviour, there is indeed considerable evidence of 'symbolic' action (Sears et al., 1980), on the one hand, and of genuinely public-spirited behaviour, on the other (Mansbridge, 1990).

In the most telling demonstration of the latter, Kiewiet (1983) reanalyses the familiar fact that voters tend to re-elect governments who are perceived to have managed the economy well. The natural, cynical interpretation of that fact is that people vote their own pocketbook interests, on the assumption that the better the economy is doing overall the better people would be doing individually. Disaggregating the responses,

however, Kiewiet finds that the strongest correlate with pro-incumbent voting is not one's own economic fate over the last few years but rather one's perception of the national economy as a whole; so even those who have themselves suffered economic hardships are nonetheless willing to reward parties that have been good for the country as a whole. Voters thus seem to be casting their ballots in a public-spirited fashion, all along (cf. Kramer, 1983). Something similar has been shown for voting on environmental issues: voters do not cue simply on their own immediate environment but instead reward or punish government for its performance in protecting the environment nationally or globally (Rohrschneider, 1988).

Power and elites

The findings of modern political science drive us away from populist models and towards models of 'democratic elitism'. According to Schumpeter's (1950, ch. 12) model, which remains the most compelling of its kind (American Political Science Association, 1950; Przeworski, 1999; Shapiro, 2002), voters are not asked to make micro-policy choices. Instead, they are asked to choose between competing elites offering distinctive policy packages of their own devising. In this way voters choose the broad outlines of policy, which is what social surveys suggest they might be competent to do, whilst leaving the detailed development and implementation of those policies to elected officials and their advisers. Periodic opportunities to ratify or revoke a government's authority to continue ruling in this way makes the scheme democratically accountable. Entrusting day-to-day management of policy to elected officials (and civil servants responsible to them) makes it elitist, in the way that any political system evidently has to be.

While the name 'democratic elitism' is novel and possibly provocative, the basic idea is familiar to the point of being trite. Arguments for representative versus direct democracy, and for representatives regarding themselves as trustees rather than as mere delegates, ultimately have always been couched in just such terms. So too has the parallel distinction, found even in Rousseau (1762, bk. 3), between politics and administration – between the basic choice of policy directions and the day-to-day management of those policy initiatives. It has long been conceded by virtually everyone writing on the topic that we will need 'elites' of at least this latter, purely bureaucratic sort; and it has widely been thought that we will need ones of the former, more political sort, as well.

The fear of elites that has long bedevilled the so-called 'community power' debate is fear of a rather different sort of elite power holder. The elite there in view is literally policy making, rather than merely policy proposing or policy implementing in character. The fear is that there might be some small number of citizens who – because of their economic power or social status – might be in a position to dictate all or almost all policy outcomes within the community. The preferences of the masses would then be literally irrelevant, thus compromising any claim the polity has to being democratic in the sense of being systematically responsive to the preferences of the people as a whole.

There have been many studies, conducted in many modes, trying to settle the empirical question of whether any such elites actually exist in modern Western societies. One particularly striking study examines the extent of interlocking directorates among major US and UK firms, and the political consequences of such concentrations of power

(Useem, 1984). Others study the proportion of women and minorities in positions of power (Zweigenhaft and Domhoff, 1998). Most, however, focus upon the politics of cities, and it is upon those studies that I shall concentrate here.

Sociologists and political scientists tended initially to talk past one another, here. Sociologists asked people 'who has power around here?', and concluded it was a small elite when the same small number of names kept cropping up (Hunter, 1953). Political scientists observed what actually happened in city council debates, and inferred 'pluralism' (or at least multiple, competing centres of power) from the fact that different people were central on different issues (Dahl, 1961). But the sociologists had a point, in that 'a reputation for power is power', as Hobbes (1651, ch. 10) himself had observed. People simply do not bother raising issues knowing that they would lose, pursuing instead their objectives politically only where they have reason to hope that those more powerful than themselves might stand aside. Ideas have a 'soft power' all their own (Nye, 2004). And, on at least some sociological accounts, power might even be exercised – intentionally or otherwise – by and through structures of social values and rules of political discourse that differentially favour status quo distributions of social resources (Lukes, 2005).

There are many mechanisms by which power is exercised politically in such a way as to pervert the political process. One, discussed below, is via the interpenetration of economic power into the political arena; as I suggest there, that form of power is pretty robust. But that is not the only form such power plays may take. The devious manipulation of language, symbols and social ritual can also play a role (Therborn, 1978) – though, happily, one that is moderately easily overcome (Goodin, 1980).

There is one other semi-structural sense in which certain people inevitably have more power than others in a democracy. Assuming a fair procedure for aggregating votes, the median voter should always get her way, precisely because she sits at the strategically central point in the spectrum of political opinion. There being, by definition, as many voters to one side of her as to the other, the party that captures her vote wins the election (on certain empirical assumptions, primarily that voters vote for parties offering policies nearest their own preferences). This leads, in the two-party case, to Anthony Downs's (1957, ch. 8) famous model of 'Tweedledee-Tweedledum' politics, with both parties converging towards the centre.

Even in multi-party contests, where parties naturally spread themselves more evenly over the policy space, something similar happens, though. It just happens later, when the time comes to form a coalition government. Assuming parties are likewise policy-interested and always prefer to coalesce with parties nearer to them in policy terms, the party at the centre of the political spectrum (the one which has captured the median voter) must always be included in any majority coalition; and given the strategic power which that fact carries, that party is also in a position pretty much to dictate terms to would-be coalition partners (Laver and Shepsle, 1996).

Questions of empirical validity naturally arise (Green and Shapiro, 1994). But the empirical results are broadly supportive of these models (Taylor and Laver, 1973; Page, 1978), particularly once their very stylized assumptions are replaced by other, more realistic ones (Grofman, 2004).

The larger question from the present perspective is, however, whether any of this really matters, normatively. Suppose it is true that the median voter is, directly or

indirectly, in a position of great power – a position of 'structural power', one might even say (since it derives from the structure of preferences among the electorate at large). The point remains that the 'median voter' refers to a *place* on the spectrum of opinion, not to any particular, named *person*. She cannot exercise power in the strong sense that the owner of a company town can. The latter can dictate outcomes, in the sense that if he changes his mind he can use his power to impose his new preference upon all others; if the median voter changes her mind, in contrast, she just loses her position of power, her opinion no longer falling at the strategically central median point in the opinion distribution.

Other sources of structural power matter more. Consider the economic relationships between centres and peripheries, both domestically (Lipset and Rokkan, 1967, esp. ch. 1; Hechter, 1975) and internationally (Wallerstein, 1974). It is the structural centrality of the centre – economically, sociologically, geographically – that allows it to systematically thrive, at the expense of its associated peripheries.

One striking example is the way in which the United States runs up massive foreign debts that would immediately lead the International Monetary Fund to crack down on virtually any other country in the world. The USA can do what others cannot because of the centrality of the USA in the world economy – and, more specifically, because of the role of the US dollar as the 'reserve currency of choice' for much of the world (Kirshner, 1995). US hegemony clearly benefits the USA. But it arguably benefits other states as well, insofar as it prevents the international system slipping into anarchy (Keohane, 1984; cf. Snidal, 1985; Goodin, 2003); so they put up with the non-ideal situation. America's position of power – and genuine power it is – is thus eminently explicable, if not necessarily ethically justifiable.

Party competition

The model of democratic elitism just adumbrated presupposes, among other things, that parties offer electors real choices. It further presupposes that parties will implement their promised policies to the best of their ability. Cynics might query both propositions.

The 'convergence towards the centre' just mentioned suggests that parties might not be offering voters real choices at all, or at least they would not in the most highly stylized versions of these models of two-party competition. Modifying those models by introducing rather more realistic assumptions, however, produces clear space between the parties (Grofman, 2004). Competing parties, like retailers, must differentiate their products from those of competitors if consumers are to have any reason to opt for their wares. They must do so in the face of inevitably (and rationally) ignorant voters, who are largely insensitive to nuances of policy detail. Parties themselves have preferences over policies, which they will trade off at the margin for votes (Wittman, 1973). The conjunction of those facts gives parties a real motive for spreading themselves apart a fair bit, rather than assuming policy positions literally adjacent to one another, even in a two-party world. And of course with three or more parties even the most stylized version of these models agrees that parties should spread themselves out across the entire policy space (Downs, 1957, ch. 8).

The same set of propositions may also explain the fascinating finding that parties, in effect, 'own' issues (Budge et al., 1987; Klingemann et al., 1994; Petrocik, 2003;

van der Brug, 2004). Whenever unemployment, for example, becomes 'the' issue of the election, that inevitably works to the advantage of parties of the left, whatever parties of the right say on the topic; conversely, whenever economic management or defence becomes 'the' issue of the election, that always benefits parties of the right. Such phenomena might reflect yet another device, akin to cuing on party labels rather than investigating details of policy proposals, which rationally ignorant voters use to economize on information costs.

The question of whether, once elected, parties do as promised is trickier. The promises are inevitably imprecise and they are inevitably implemented in circumstances that were at least partly unforeseeable at the time they were made. So it is no straightforward matter to specify what ought be counted as acting in good faith to discharge manifesto promises. Still, it seems that parties at least try to do something to implement most of their promises, most of the time (Pomper, 1968; Budge and Hofferbert, 1990; Klingemann et al., 1994).

Collective action in politics

Problems with respect to collective action to provide public goods, in general, are canvassed in chapter 5 above. The problem, in a nutshell, is that the benefits will accrue to people whether or not they contribute to the costs of their production, so everyone would rationally wait for others to contribute – which, being equally rational, they would not. The upshot is that public goods will be systematically underprovided through voluntary efforts among rational actors.

The point to notice, in the present context, is that political parties and interest groups provide public goods in precisely that sense. They shape public policies which will affect whole broad classes of people, whether or not those people have themselves borne the costs of helping to shape those policies. So unless (almost *per impossible*) someone has reason to suppose that her own contribution would make all the difference between provision and non-provision of the policy goods – or unless (far less implausibly) she expects some private perquisite like office or official favours – no one would have any rational reason to contribute to political campaigns, at all.

Political scientists have energetically risen to the challenge of economists, most notably Olson (1965), on this score. They have gone to great lengths to show that in repeated interactions among the same people, time and again, co-operative 'tit-for-tat' norms naturally emerge. Each contributes, on condition that others do likewise (Hardin, 1982; Axelrod, 1984; 1986; Taylor, 1987). As long as the group is small enough and stable enough in its composition, this mechanism evokes a very substantial measure of voluntary contribution to public goods (Ostrom, 1990).

Such norms seem to work quite well in ensuring co-operative behaviour among parliamentarians and political elites more generally, so long as their membership is not too fluctuating (Weingast and Marshall, 1988; cf. Uslaner, 1991). They seem to work quite well in organizing the potential anarchy of international relations (Oye, 1986), again precisely because there we find the same two hundred or so national governments and non-governmental organizations facing off time and again. They similarly serve to motivate industries with a few big players to organize powerful trade associations to lobby governments (Useem, 1984) and indeed governments to

consolidate repeat-players into routinized policy networks (Heclo and Wildavsky, 1974; Rhodes, 1988).

The preconditions that such mechanisms require – small, stable groups – are less well satisfied in cases where the interests involved are those of the public at large, however. Of course there are genuine public-interest movements lobbying government. But the evidence suggests that their members are either acting on a very partial subset of 'public' interests (McFarland, 1976) or else they are driven more by expressive than by instrumental concerns (Hardin, 1982, ch. 7).

All told, this tit-for-tat analysis of collective action is probably most useful, therefore, as an account of the differential formation of interest groups. It seems safe to assume that the costs of organizing an interest group increase with size, if only because tit-for-tat is harder to monitor and enforce in such circumstances. If so, however, small and concentrated interests will always be overrepresented relative to large and diffuse ones in the councils of state (Goodin, 1982b; McFarland, 1987). Empirical studies of the causes of the inegalitarian impact of US tax and spending policies bear out these theoretical speculations (Page, 1983).

Coming to Public Judgement

A final requirement of democratic theory is that individuals' preferences be somehow merged to form an overall social decision. There are two distinct methods (Miller, 1992). One is mechanical: the adding up of votes. The other is more discursive and judgemental: reasoning together. Much work in recent political theory, both normative and empirical, focuses on the choice between these two mechanisms.

Aggregating preferences: social choice theory

The more mechanistic approach to social choice aspires for individuals' preferences to be aggregated impartially into some determinate collective choice. But, as has long been known, majority rule may well be indeterminate. The structure of people's preferences may be such that any option can beat any other option by a majority vote. Where we stop – what we settle upon as 'the' democratic outcome – is then highly arbitrary.

Imagine the simplest three-voter, three-issue case, with preferences distributed as follows:

Alan prefers option Z to Y to X;
Bea prefers option X to Z to Y;
Charlie prefers option Y to X to Z.

Then majority rule leads us around in circles. Option Y beats X (by the votes of Alan and Charlie), option Z beats Y (by the votes of Alan and Bea) but option X beats Y (by the votes of Bea and Charlie). In cases such as this, majority voting yields no determinate answer to the question of which option is socially preferred.

Condorcet noticed this danger over two centuries ago. A vast literature has since grown up in and around mathematical economics trying – largely unsuccessfully (Sen,

1977b; Ordeshook, 1986, ch. 2) – to find a way out of the general impossibility result that Arrow (1963) constructed upon those foundations. (See chapter 5 for further details.) Under some really rather weak assumptions, it is mathematically always possible via a finite sequence of majority votes to cycle from anywhere to ('arbitrarily near', to be precise) anywhere else in the policy space (Schofield, 1976; McKelvey, 1979).

Happily, there are various political solutions to these dilemmas that economists find so mathematically intractable. One solution to the Condorcet/Arrow paradox works at the level of individuals' preferences. If people's preferences are 'single-peaked', that too defeats the Condorcet paradox (Black, 1958; Riker, 1983). Single-peakedness amounts to a requirement that everyone sees political space in the same way, with the same basic options being arrayed along the same dimensions in the same order. It is not unrealistic to suppose that such a condition might often be satisfied. By structuring public debate, political parties and the mass media help to synchronize people's perceptions of what is at issue in political disputes in just these ways (Powell, 2004; Page, 1996). Were public decisions made more along the 'deliberative' lines discussed below, these 'structuration effects' would be all the stronger, and the risk of voting cycles would recede still further.

This solution to the Condorcet/Arrow paradox works, of course, by restraining what preference orderings people have – specifically, by inducing them to rank alternatives along some generally accepted dimension or dimensions of political cleavage within their society. Some may deem this an intolerable interference with people's preference orderings. But others would see it as almost akin to a prerequisite for the existence of a 'community' sufficiently cohesive for the notion of a choice to have meaning. Aggregating people's preferences into a collective choice only makes sense under certain special conditions, after all. Minimally, participants in the process must be agreed that they are one 'people', for whom a single collective choice ought to be binding (Rustow, 1970). We might in like fashion also add that the whole idea of making a collective choice further presupposes a community of people agreed on the basic dimensions of political discourse. That thought – which seems independently attractive – would, incidentally, help us to evade the Condorcet/Arrow challenge.

A second solution, of sorts, is to change the decision procedure. The Condorcet/Arrow paradox emerges only in connection with pairwise comparisons, pitting option X against option Y and then the winner of that round against option Z. There would be no scope for going around in circles among those options if the voters' task were conceived, instead, as picking which option they favoured from among the trio {X,Y,Z}. A variation on that theme, which evades the Condorcet/Arrow paradox in similar fashion, is the institution of 'approval voting': voters are merely asked to vote for all options (as many as they like) that they prefer to the status quo, with the winner being that option getting the most positive votes (Brams and Fishburn, 1978).

A third political solution to that paradox lies in the structure of political institutions themselves. Even if the structure of people's preferences is such that they risk going around in circles, the rules of political life might not allow them to do so. In direct democracies, popular petitions or legislative edicts succeed in putting only a small subset of all possible options on a referendum ballot; and among such a small subset of options, there is much less risk of a voting cycle emerging. Similarly, representative

assemblies have rules requiring that legislative proposals be voted upon in a certain order or come to the floor via certain committees (each of which has a peculiar character, imperfectly representative of the assembly as a whole). Those facts of legislative life likewise constrain the number and kinds and ordering of options that appear before legislators – once again reducing the risk of a Condorcet/Arrow cycle (Shepsle and Weingast, 1981; 1984; 1987; Ordeshook, 1986, ch. 6; Weingast and Marshall, 1988; Baron and Ferejohn, 1989). The constitutional constraints characteristic of liberal democracies further limit what options appear, and hence the chance of a voting cycle (Riker, 1983). In all these ways, political scientists have found devices, if not necessarily always for ensuring, at least for greatly increasing the likelihood of 'structure-induced' equilibria (Shepsle and Weingast, 1981; 1984).

Both these latter two sorts of solutions 'solve' the Condorcet/Arrow paradox simply by 'hiding' the cycle. Alternative voting rules do so by collecting less-than-full information: the intransitivity in pairwise comparisons of each option with each other that Arrow proves might always be present is simply rendered invisible by balloting procedures that ask people only about their 'top preferences' or 'acceptable options'. The political structures that induce equilibria do so likewise simply by blocking a vote on some options against some others.

Whether simply 'hiding the cycle' in these ways is sufficient to solve the problem depends on what you think the problem is. If what worries us is instability in social decisions arising from voting cycles, then anything that stops us going full circle in the cycle suffices to prevent that. If the problem is, instead, that where underlying cycles exist then any social decision is inherently arbitrary, hiding the fact does not eliminate that essential arbitrariness. Of course, where there is a cycle, it follows from that that any decision is as good as any other: all of them are on the Pareto frontier, as it were, so it really does not matter which we pick by whatever arbitrary process.

How much any of this should worry us depends on how common Condorcet/Arrow cycles actually are. Even just mathematically, we have reason to believe that such cycles, while always possible, are not at all common (Niemi and Weisberg, 1968). Adding all these other more explicitly political factors into the model reduces the probability further still. *A priori* expectations are borne out by empirical evidence. A paltry 26 examples of such a voting cycle have been offered in the political science literature; and upon reanalysis only one of them is really a credible case of a Condorcet/Arrow cycle (Mackie, 2003).

The other 25 cases, Mackie (2003) concludes, are mostly instances of failed attempts at strategic voting. That is to say, there was no real cycle of a Condorcet/Arrow sort in people's 'sincere' preferences. The appearance of a cycle emerges only because people were engaging in insincere, 'strategic' voting (trying to set up the option that they actually prefer in a run-off against its weakest rival).

That in itself should be no cause for celebration. Strategic voting, whether it succeeds or whether it fails, is also contrary to the democratic ethos. It is only people's true preferences that democratic theory wants us to aggregate. There is an important proof in the social choice literature that there is no decision rule – majority rule or any other – that is 'strategy proof', in the sense that it would never pay to misrepresent your preferences (Gibbard, 1973; Satterthwaite, 1975). But on the evidence of Mackie's (2003) 25 cases, that too seems moderately uncommon.

The general lesson is just this. Proving that something is possible is one thing. Proving that it is probable quite another. In assessing the practical significance of formal theorems, it behoves us to bear that difference constantly in mind.

Discursive decision-making: deliberative democracy

One way of making social decisions is just to add up votes. Another is to reason together, in a more deliberative, discursive mode. Most political systems use both processes, often in the same realm. Courts famously deliberate; but multiple-member courts nonetheless decide cases by counting votes. Legislatures famously debate and deliberate, some more successfully than others (Steiner et al., 2004), but ultimately they put proposals to a vote.

At the other end of the spectrum, voters basically just vote. To be sure, they deliberate somewhat before voting: they talk to friends and family; they argue in the bar and at work; they participate vicariously in the public debate through the mass media (Page, 1996). But while models of 'communication' and 'influence' figure centrally in empirical analyses of political behaviour, 'deliberation' traditionally does not (cf. Yankelovich, 1991).

Calls for 'democratizing' social life sometimes focus on the need for 'more participation' by the public in everything from shopfloor decisions to city budgeting (Pateman, 1970; Fung and Wright, 2003). More recently, the focus has fallen on making democratic decisions 'more deliberative'. A wide variety of deliberative designs have been employed, ranging from dozen-person Citizens' Juries to hundreds-strong Deliberative Polls (Goodin and Dryzek, 2006).

However different they are in other respects, one feature all those designs have in common is that they involve a small subset of the public as a whole – and necessarily so, if genuine deliberation is going to occur. A major challenge is thus to find some way of articulating these 'micro-deliberations' by 'mini-publics' with the decision-making processes of the 'macro-political system'. One rather fanciful model is Ackerman and Fishkin's (2004) Deliberation Day, with thousands of Deliberative Polls occurring simultaneously around the country and involving, in principle, every voter on some stated day just before major elections; it is an interesting thought, but at $15 billion probably too expensive to be realistic (Shapiro, 2002). More realistically, perhaps the upshot of deliberations by mini-publics can feed into the ordinary political process, either shaping policy directly (as in the case of Deliberative Polls on Texas energy decisions) or shaping public opinion (as in the case of the Citizens' Assembly on a new voting system for British Columbia). In both those ways, the deliberations of small groups of citizens might be incorporated into the larger political process, in the process making it more deliberative in turn (Goodin and Dryzek, 2006).

Deliberation is particularly valued because it is supposed to evoke preferences that are different from, and superior in various respects to, those that would prevail without deliberation. Of course, it is perfectly possible that both propositions might prove false: deliberation in legislative chambers seems not to change members' minds much (Steiner et al., 2004); and social psychological studies warn that conformist group-think within small groups might lead them to extremist conclusions (Janis, 1982, Sunstein, 2002;

Huckfeldt et al., 2004). Thus, the design of a deliberative exercise is crucial, if it is indeed to evoke the superior sorts of preferences envisaged.

Evidence from Deliberative Polls and Citizens' Juries, however, suggest that those sorts of deliberations do indeed change preferences and, furthermore, that the new preferences are in crucial respects superior to the old. Post-deliberation, participants are better informed; and that information gain, rather than small-group conformism, is the best explanation of their preference changes (Luskin et al., 2002; Goodin and Niemeyer, 2003). Post-deliberation, people's preferences are also 'better structured' along some common dimension of disagreement – increasing 'single-peakedness' and thus decreasing the likelihood of a Condorcet/Arrow voting cycle (Dryzek and List, 2003).

The larger hope is that 'deliberation' together with others importantly different from oneself will make one more empathetic and one's preferences more public-spirited and less narrowly self-interested (March and Olsen, 1986; Wilson, 1990; Goodin, 1996b). Evidence on this is harder to come by, not least because of difficulties in finding uncontentious empirical indicators of those normatively charged ideas. But such evidence as we have suggests that preference shifts that occur over the course of deliberation are indeed in those directions (Orbell et al., 1988; Kinder and Herzog, 1993; Mansbridge, 1993).

Bureaucracy and Democracy: Organization Theory

'New institutionalism' takes political scientists back to their roots (Rhodes et al., 2006). Throughout the inter-war years, the study of governmental structures and processes were the bread and butter of the study of 'government' (as political science was then called). Sociologists, too, have always known that social structures and political institutions mattered. 'Bringing the state back in' is only the latest rallying cry in a long campaign to reinstate that fact at the centre of the discipline (Evans et al., 1985).

At some level, political scientists always appreciated the ways in which institutional rules and practices shaped political outcomes. This is especially true of electoral law, for example (Rae, 1967; Cox, 1997; Powell, 2004). It obviously makes a great difference to the outcome whether the rules stipulate single-member districts with victory going to whoever enjoys a plurality of votes, or whether the rules stipulate multiple-member constituencies with seats being awarded according to (any of the several forms of) proportional representation (which can themselves yield radically different outcomes).

The 'new institutionalism' goes well beyond that, however, to study the particular details of political organization at all levels and their consequences for policy choice. Once relegated to a backwater of public administration, questions of organizational form and function have once again come to be central to the discipline as a whole (March and Olsen, 1984; 1989; Weaver and Rockman, 1993; Goodin, 1996b; Rhodes et al., 2006). Organization structures create communities of interest, both within the organization and among those dependent upon the organizations. They direct the flow of information. Some say they even shape preferences themselves. Be that as it may, how authority is structured within an organization and where within it veto points are

located certainly do matter to policy outcomes (Tsebelis, 2002) – although, of course, not always in the ways intended by institutional designers themselves.

Indeed, one of the first things one notices in studying organizational function is dysfunction. At one point in the recent past it was commonplace to complain that public bureaucracies were 'overloaded', asked to do too much with too few resources (Crozier et al., 1975; King, 1975; Rose and Peters, 1978). Various reforms are suggested, often inspired by advances in artificial intelligence, for organizing this level of social complexity and rendering it administratively tractable for beleaguered bureaucrats (La Porte, 1975; Simon, 1981). But one suspects that they are always going to be forced to settle for solutions that are 'good enough' rather than the 'very best' (Simon, 1982; 1985) and that they will always start searching for them in the vicinity of the status quo – thus leading to incremental rather than radical responses to new policy puzzles, however fallacious incremental thinking may be in the circumstances (Lindblom, 1959; cf. Goodin, 1982a, ch. 2).

Another source of organizational dysfunction might lie in the behaviour of public personnel themselves. The 'new economics of organization' (Moe, 1984; Miller, 1992; see also chapter 5 above) highlights the 'principal/agent' problem. That warns that civil servants are not necessarily selfless ciphers eager to serve the public interest; instead they are agents with interests of their own, which do not always overlap the public interest and which will sometimes contradict it (Arrow, 1974; Lipsky, 1980).

Evidence of this phenomenon is arguably found in studies showing the very imperfect implementation of public policies, enacted by people with one set of priorities but then entrusted to ones with quite another (Bardach, 1977; Brewer and de Leon , 1983, chs 9 and 10). But what the political science findings seem to suggest, rather more strongly, is that bureaucrats are keen to pursue their 'institutional interests'. As the slogan goes, 'Where you stand depends upon where you sit' (Allison, 1971, p. 176). Representatives of Treasury internalize that agency's priorities and press them in intramural bargaining with other agencies; representatives of Defence, that agency's; and so on (Niskanen, 1971; cf. Goodin, 1982b and Dunleavy, 1991).

This form of partisanship is obviously less problematic than simply lining one's own pockets, as in the classic principal/agent case. Such bargaining may even lead to socially optimal results, on a certain idealized model of inter-agency bargaining – one wherein all aspects of the public interest find some agency to champion them, with power proportional to that cause's importance to the public interest itself (Lindblom, 1965).

But that model is, of course, highly idealized. Not all aspects of the public interest find institutional advocates; and the balance of power among those that do bears no necessary relation to the public interest. Which agencies exist, and what power they have, is largely a historical accident. Thereafter, government organizations tend to be 'immortal' – to survive long beyond their original purpose has passed (Kaufman, 1977). Policy making is more characterized by a swirling mix of problems looking for solutions, pet solutions seeking problems, and temporarily idle people looking for something to do next (Olsen, 1972; March and Olsen, 1976; Moran et al., 2006, ch. 1). One consequence is a familiar pattern of 'policy succession'. In policy terms, one intervention leads 'naturally' to another, along certain predetermined lines (Hogwood and Peters, 1983; Pierson, 2004). For perfectly understandable reasons connected to the logic of

organization, there is all too little attempt to step back and consider whether we were on the right basic track, in the first place.

There has been much criticism of 'high modernist' approaches to public policy (Moran, 2003), in which states impose deliberate 'simplifications' on complex social realities to render them tractable for policy purposes (Scott, 1997) and employ command-and-control mechanisms as their preferred ways of rectifying the problems thus brought into view. Recent years have seen several attempts to 'reinvent government', incorporating 'bottom-up' rather than just the 'top-down' mechanisms that traditionally characterized high-modernist policy writing.

'Reinventing government' and the 'new public management', as these reforms have come to be called, typically involve introducing market-style mechanisms within the public sector (Kettl, 2000). Evidence suggests that those reforms might have improved government performance in some areas, particularly service delivery (World Bank, 1997, ch. 5). In other areas, however, the gains from the 'new public management' are less clear, and the costs in terms of diminished democratic accountability are substantial (Christensen and Lægreid, 2002; Suleiman, 2003).

Power and Distributional Regimes

There are many different ways of organizing the distribution of the benefits and burdens of social co-operation. At root, all are arguably variations on two basic alternatives – markets and planning. Each has its own characteristic strengths and weaknesses and its own characteristic consequences for the distribution of social power (Dahl and Lindblom, 1953; Lindblom, 1977; Wolf, 1988; Simon, 2000).

Politics over markets

Even in a fundamentally market-based social system, there are reasons for the state to supplant the market in the distribution of valued resources. One, canvassed in chapter 5 and earlier in this chapter, is that the market underproduces public goods and positive externalities more generally (and, conversely, overproduces negative ones). That might be called an 'efficiency-based' rationale for state action. Of course, political action to correct the market failures might in practice be blocked by the collective-action problems already discussed, which might sometimes be the source of the market failure in the first place.

A second reason for state action supplanting the market, at least in certain realms, is that people respond differently to the same question when it is asked in different contexts. Asked their market preferences, they will usually give a more privately, self-interested response than when asked their public policy preferences. There, they may well respond in a more public-spirited way. There are both theoretical reasons (Goodin and Roberts, 1975; Brennan and Lomasky, 1985) and empirical evidence to support this speculation (Kiewiet, 1983; Rohrschneider, 1988). Call this the 'virtue-based' rationale.

Finally, and historically most centrally, is a 'power-based' rationale. The market-based distribution results from a certain distribution of power (which may lead to literal

inefficiencies, as well). We may be happy to let that power distribution dictate distribution of most goods and services; or perhaps we simply see no realistic way of preventing it from so doing. Still, there are certain things we think ought to be distributed more equally than money and social resources more generally. Among the disparate goods that fall into this category are basic necessities (food, shelter, medical care), on the one hand, and symbols of citizenship (voting rights, military and jury duty), on the other. Insisting that these particular goods be distributed equally, when little else is, has come to be known as 'specific egalitarianism' – an attitude of egalitarianism which people apply to specific commodities but do not extend to all commodities in general (Tobin, 1970; Radin, 1996).

Whichever the rationale, the basic idea in all cases is to allocate certain items politically, according to very different rules than would govern market distributions (Lindblom, 1977; Esping-Andersen, 1985). That attempt is more successful in some places than others. But for evidence that the attempt can succeed, we need look no further than to the redistributive success of welfare-state transfers. Some scholars despair that the growth of public expenditure on social welfare is driven almost entirely by economics and demographics; once those influences are factored out, political variables such as democratic participation, competitiveness or the strength of leftist parties seem to have no effect on expenditures (Jackman, 1972; Wilensky, 1975). But if we shift attention from the level of public expenditure to how the money is spent and with what effect, we see very different levels of poverty, inequality and social instability resulting from the very different policies characterizing liberal, corporatist and social-democratic welfare regimes (Esping-Andersen, 1990, ch. 5; Goodin et al., 1999). Clearly, politics does – or anyway, can – matter.

Markets over politics

In order to allocate certain things politically according to rules different from those governing market distributions, it is essential that the two currencies – one political, the other economic – really be kept separate (Lindblom, 1977). Whether they can be is in part a question of to what extent monied interests liberally bribe corrupt public officials (World Bank, 1997, ch. 6). In part it is a question of indirect bribery – monied interests contributing to (or threatening to withhold contributions from) increasingly expensive election campaigns (Alexander, 1980; Jacobson, 1980; Berry, 1984, ch. 8). In part it is merely a matter of the political power of private capital to threaten to migrate out of the political jurisdiction in question unless it is given preferential treatment (Finer, 1955–6; Garrett, 1998).

In all those ways, economic markets strongly penetrate political ones. The upshot seems to be that our polity cannot be very much more democratic than is our economy itself. If so, there are two possible responses. One is to accept that our polity is going inevitably to be much less democratic than we would like ('one dollar one vote' replacing 'one person one vote'). The other is to insist that our economy be more democratic than we might otherwise be inclined.

Seepage from the economic to the political is not the only source of non-democratic influences, however. There is no reason to believe that simply replacing the economic market with a political 'markets in votes' would necessarily lead to egalitarian

outcomes. True, everyone has one vote and no one has more than one. But then again, there is no reason for the governing coalition to take equal note of everyone's preference. It need secure the support of only just enough to win office comfortably and to govern. A classic conclusion of modern coalition theory – revised subsequently only at the margins – is that coalitions will squeeze out superfluous members, defined as ones whose votes are not required for them to win and hold office (Riker, 1962; Taylor and Laver, 1973). So within politics just as in economics, we ought naturally to expect that some ('the many', in Aristotelian terms) will exploit others ('the few').

We can only hope that the tables turn often enough that these effects even out in the end – or that, in anticipation of tables turning, they are prevented from occurring at all. There are, however, reasons to expect systematic biases here in favour of some groups and against others. Those who are systematically advantaged include, most conspicuously, the middle classes: they, presumably, are the all-powerful median voters, at least on distributional questions (Stigler, 1970). Those who are systematically disadvantaged include the working classes: on one persuasive account, the electoral pursuit of socialism is doomed by the inexorable need for working-class parties to craft their programmes so as to attract sufficient non-working-class votes to win an electoral majority; the working classes must forsake socialism, and hence their own interests, if they are to win power in a democracy at all (Przeworski and Sprague, 1986).

These systematic biases recur especially powerfully at the international level. Given patterns of resource distribution, and hence trade, certain nations are necessarily peripheral. Precisely because no one needs them, economically or politically, they are eminently exploitable. Furthermore, they are particularly prey to the influence of capital from abroad, both public and private – and they are particularly at the mercy of strings being attached to the provision of such funds by multinational corporations or national or international lenders (Cassen, 1986, ch. 4; Stiglitz, 2002).

Politics and planning

The conventional alternative to a market economy is a socially planned, command economy (Elster and Moene, 1989). Halfway measures include 'market socialism', wherein there is an initially egalitarian distribution of social capital but all thereafter is left to the market (Lange, 1936–7); 'stakeholding' (Ackerman and Alstott, 1999) and 'basic income' (Van Parijs, 2001) proposals are paler variations yet again on that basic theme, providing for a more nearly equal (but not fully equal) initial capital distribution or income stream. None of these alternatives has been tested in sufficiently propitious circumstances to ascertain their real viability, though.

The principal reason for politicians to take command of the economy in this way is, presumably, resentment at the maldistribution of previously private capital. So, on the face of it, it would seem likely that command economies – whatever their economic inefficiencies – would at least enjoy much more egalitarian distributions of income and wealth.

That presumption is too quick, though. One problem is that planners have great difficulty in planning anything to any degree of precision (Wildavsky, 1973); and that includes social distributions just as surely as it does material production. Another

problem derives from the disjunction between ownership and control of nationalized assets; and insofar as it is control over resources rather than the right to buy and sell them that creates social inequities, taking private capital into public hands simply replaces private owners with public functionaries in positions of authority within the command economy (Dahrendorf, 1959). These problems are not just theoretical but real. Those who have lived under such regimes complain bitterly of a 'new class' (Djilas, 1957) enjoying perquisites denied to ordinary citizens. Djilas's term was originally a reference to the *nomenklatura* – the favoured members of the ruling party. But the same complaint can be extended more generally to all those who benefit from black markets or who have access to hard currency.

Distributions within planned economies may nonetheless be more equal than in market societies. (Favoured though it was under the old regime, the Soviet *nomenklatura* got far richer yet again when state assets were privatized.) Still, 'more equal' might not be good enough. The inequality may rankle all the more, precisely because those politically responsible for ensuring equality are among its prime beneficiaries (Parkin, 1971, chs 5 and 6). The 'moral collapse of communism' throughout Eastern Europe has plausibly been traced to resentment of precisely this fact (Clark and Wildavsky, 1990).

Equality is not the only reason for instituting a command economy, however. There is also an urge to secure 'popular control' of the economy, to make it democratically responsive to popular demands. It is an open question how best to accomplish that goal. On its face, a command economy would seem more responsive to political (which, under certain idealized conditions, equates to popular) will. But politicians' commands are filtered through layers of imperfectly responsive bureaucrats; so even if the politicians are themselves highly responsive to popular demands, the economy which they command might not be (Wolf, 1988). It might, on balance, turn out that even very imperfectly responsive markets (where people's preferences are weighted according to wealth and stifled by the operation of market power) might nonetheless be more responsive than bureaucratically sticky planned economies.

Constitutional Regimes

Normative theorists commend unhesitatingly schemes of 'universal' human rights, constitutional constraints on political rule, and so forth. But it is worth recalling just how sociologically contingent such political constraints have historically been.

At a purely political level, respect for human rights and constitutional constraints has always been contingent upon which elites come to rule. Micro-sociologically, there is substantial variation in commitment to 'basic' democratic values even within established democracies; and however undemocratic the mass public might be, certain elites (especially within parties of the right) might be even less supportive of certain fundamental principles of democracy than the public at large (Sniderman et al., 1991). Macro-sociologically, the emergence of constitutional democracy depended upon a peculiar constellation of historical circumstances. Liberal democracy and allied notions of rule of law and constitutional rights and liberties are products of a political 'stand-off' during the formative era: where the balance of power was different (where the crown

was stronger, or the clergy more dominant, or the gentry less assertive, or the urban bourgeoisie less powerful), the social bases for liberal democracy would simply have been lacking (Moore, 1967).

Of course, once pioneered in one place, such institutions can be transplanted elsewhere, with greater or lesser success. 'Transitions to democracy', with the attendant transfer of institutional (especially constitutional) technology, was very much the story of the late twentieth century in a wide range of places. Political scientists, as participant observers, have drawn a rich set of lessons from the experience (Rustow, 1970; Elster et al., 1998; Linz and Stepan, 1996).

When, as often happens, transplant of constitutionalism fails to take, it is unclear what to infer. Some criticize the folly of trying to transpose such notions to settings that are simply not apt. Others count it as a criticism of the local situation that decent constitutions cannot thrive there. Both responses have merit. While strong rights might be better, they might be socially infeasible, especially in much of the developing world; and certainly we ought not set our standards so high as to exempt rulers from pursuing such modest accomplishments as are genuinely within their grasp. Better that there be no arbitrary arrests, even if a few executions remain; better that free speech be respected, even if disease and starvation remain endemic (Geertz, 1977).

By the same token, we ought not assume too easily the necessity of sacrifice. There is a fallacy – associated with the slogan 'no free lunch' – which holds that no two good things can ever be obtained simultaneously. Such thinking leads, all too often, to sacrifices that are utterly gratuitous. This is nowhere more true than in the ostensibly necessary trade-off between economic development, on the one hand, and human rights and civil liberties, on the other. Philosophers as distinguished as Rawls (1971, sec. 82) sometimes write as if the one can come only at some substantial cost to the other. But in truth there is no good reason in theory (Goodin, 1979) – and no good evidence in cross-national data (Frohoch and Sylvan, 1983; World Bank, 1997) – for supposing that violating human rights systematically enhances economic growth.

Much of the political science input into debates over constitutional fundamentals in the emerging democracies concerned structure-and-process issues. Is parliamentarianism more stable than presidentialism (Sartori, 1994)? What is the most appropriate role for the judiciary, particularly in a foundling democracy (Tushnet, 1999)? What electoral system best promotes cross-voting among disparate ethnic communities in classically divided societies (Horowitz, 1991; Reilly, 2001; Shapiro, 2002, pp. 251–60)?

Politics and Civil Society

A thriving democracy presupposes a thriving civil society, independent of politics and providing inputs into it. This is one of the clearer lessons to emerge from the breakdown of communism in Eastern Europe (Cohen and Arato, 1992). And it has been one of the dominant themes of much writing in the USA and other developed democracies, bemoaning the decline in social trust, in institutions as well as other individuals, and in 'social capital' more generally (Putnam, 1993; 2000; Skocpol and Fiorina, 1999; Macedo, 2005). One diagnosis traces that to decline in civic engagement across the board, including not only participation in politics (voting, campaigning and so on) but

also, crucially, participation in voluntary associations that have historically been the incubators of democratic life (Verba et al., 1995; Putnam, 2000). Other diagnoses trace the decline in trust in political institutions to the performance of those institutions themselves, and their incapacity to control much that is of great consequence in the contemporary world (Pharr and Putnam, 2000; Rothstein, 2005).

More generally, it is often thought that democracy presupposes certain broad bases of agreement within the larger civil society. Whether phrased in radical terms of 'hegemony' (Gramsci, 1971; Laclau and Mouffe, 1985) or more modest ones of 'social prerequisites' (O'Donnell et al., 1986, pt. 4, ch. 5; Przeworski, 1991), the basic idea is just this. In order to govern any moderately diverse plural community at all there must be 'agreement' among the disparate subgroups, not necessarily on substantive issues, but at least on the basic procedures by which substantive disagreements are to be resolved. In a democracy, that agreement must be on the basic procedures of democracy itself.

Political scientists report finding something like that at work within the best-functioning, most stable democracies (Prothro and Grigg, 1960; Almond and Verba, 1963; 1980; Eckstein, 1966; Budge, 1970). Where such agreement is lacking, so too is political stability. The intractable ungovernability of places like Northern Ireland is standardly taken to be dramatic proof of that latter proposition (Rose, 1971; Lijphart, 1975a).

Such arguments are arguably suspect, both logically (Barry, 1978) and sociologically (Pateman, 1971; 1989, ch. 7). Reanalysis of the evidence leads careful sociologists to conclude that, even in the best-functioning and most stable democracies, a value consensus exists only among the rulers; among the underclasses, consent is more pragmatic, situationally determined and hence shaky (Mann, 1970; Abercrombie et al., 1980). So as a positive explanation of democratic stability, value consensus probably will not suffice; and perhaps we ought to talk about 'bargains' which, however grand their titles ('the historical compromise', 'the post-war settlement'), are actually of a perfectly ordinary divide-the-spoils sort (Kirchheimer, 1969; O'Donnell et al., 1986, pt. 4, chs 4 and 5; Przeworski, 1991).

Still, as a normative ideal, the notion of a 'value consensus' of some sort or another retains its charm. The older literature on 'nation building' repeatedly points to the need for something like Rawls's (1993, lec. 4) 'overlapping consensus' – some deeper social-cum-political principles upon which all can agree, whatever their other differences (Geertz, 1963; Huntington, 1968). Similar themes recur forcefully in the literature on 'transitions to democracy', and on why some countries succeed and others fail (O'Donnell et al., 1986, pt. 4, chs 4 and 5; Elster et al., 1998).

Many societies with deep religious, ethnic or other sociological divisions practise a 'politics of accommodation'. The system goes by various names: 'consultative', 'pillorized', 'consociational', 'co-optive', 'corporatist'. By whatever name, the processes are much the same: consensual rather than majoritarian, with proportional representation and divided powers in many dimensions. Obviously, the contending parties need to be prepared to work together on those terms if the system is to work at all. But as long as those rules are broadly agreed and broadly respected, society can function politically with virtually nothing else being contained in a socially overlapping consensus (Rogowski, 1974; Lijphart, 1975b; 1977; 1999; Steiner and Dorff, 1980).

One other thing also needs to be agreed. That is where the boundaries of politics lie. The reference is, in the first instance, to the national boundary in the most literal sense: where does one political community end and another begin? Geography aside, there remain fundamental sociological questions of inclusion and exclusion: who is to be regarded as a proper claimant on our social resources (Dryzek, 1996)? That in turn leads to the further question of which resources ought to be up for grabs politically: what rights attach to social citizenship (Marshall, 1963; King and Waldron, 1988), how should we delimit the spheres of the public and private (Pateman, 1989, ch. 6; Hacker, 2002), and so on?

There are various political equivalents of strong and weak forces of nature at work binding together political unions. The composition of political communities can no longer be taken for granted; and that is no longer just a matter of the unravelling of colonial empires. Centripetal forces of politics increasingly lead to outright secession or to enfeebled confederations. With each such weakening of the claims that each group has on the others, those centripetal forces are further exacerbated.

Conclusion: Political Possibilities

Politics, it is standardly said, is 'the art of the possible' – the study of constrained pursuit of moral ideals in the public sphere. Those constraints take various familiar forms. Between them they are often thought so severely to delimit our practical socio-politico-economic options as to leave little, if any, room for the play of our higher ideals. If only a handful of closely adjacent options are feasible, then the pretence of value-driven choice among them is largely a fraud.

The upshot of this survey is that the familiar forms of constraint may not be so very constraining, after all. Economic constraints, for example, may make the pursuit of certain ideals hard. But typically they do not make it impossible. We have to look for a way to meet basic needs without drastically handicapping a poor nation's prospects for economic growth, perhaps – but look and we will find. The same is broadly true of social and psychological constraints. They too may make moral ideals harder to realize, politically – but not impossibly so. The transformation of capitalist maximizers into socialist citizens, for example, was once thought psychologically next to impossible because of the very different incentives to which people would be required to respond under the two systems. Upon closer inspection, however, it seems that late capitalist societies are already inculcating the psychological prerequisites for socialist citizens into people: a large proportion of people's rewards there come in the form of social esteem, already (Lane, 1978; 1991).

The main constraint on achieving political ideals is possibly not any of those more familiar economic, sociological or psychological ones. Rather, it may be the availability of *political* ideas themselves: the policy techniques/mechanisms/solutions available to solve tricky equations. From the study of public policy making we know that there are strikingly few 'solutions' – strikingly few well-worked-out policy options – on offer at any given moment (Olsen, 1972; March and Olsen, 1976). Weapons systems designed for one purpose are knocking around forever until they finally find a problem to which

they might plausibly constitute a solution (Levine, 1972). So too, perhaps, with technologies to solve ethical problems.

If this speculation is valid, then what it suggests is the following pair of conclusions. First, normative theorists ought shift attention, at least for a while, from values to mechanisms for implementing them. There is no point in fine-tuning desiderata when there are only a few and very rough-grained choices presently among our policy options for satisfying them.

Second, in looking with a normative eye for other empirical policy options, we ought not be too tightly constrained by 'realism'. Much in the literature on policy choice testifies to the sorts of artificial blinkers that 'cognitive models', 'conceptual lenses' or 'frames of reference' impose upon us (Allison, 1971; March, 1972; Kinder and Herzog, 1993, pp. 361–3; Polletta and Ho, 2006). What we need instead is to think – at least for a time – in more free-form fashion, 'trying on' outrageous propositions (March, 1976).

In the real world of politics, revolutions and crises function as 'moments of madness' in just this constructive way (Zolberg, 1972). Precisely because constraints that once seemed insurmountable have been overcome, one assumes that anything might be possible (March, 1976). Much is not, of course; but the illusion helps us to see what is. And that may be why it takes a profound political 'crisis' to initiate a perfectly predictable, progressive 'sequence' of political development (Binder, 1971). Seen in this light, the periodic 'crises' proclaimed within political science and political philosophy might themselves be no bad things.

References

Abercrombie, N., Hill, S. and Turner, B. S.: *The Dominant Ideology Thesis* (London: Allen & Unwin 1980).

Ackerman, B. A. and Alstott, A.: *The Stakeholder Society* (New Haven, Conn.: Yale University Press, 1999).

Ackerman, B. A. and Fishkin, J. S.: *Deliberation Day* (New Haven, Conn.: Yale University Press, 2004).

Alexander, H.: *Financing Politics*, 2nd edn (Washington, DC: Congressional Quarterly Press, 1980).

Allison, G. T.: *Essence of Decision* (Boston, Mass.: Little, Brown, 1971).

Almond, G. and Verba, S.: *The Civic Culture* (Boston, Mass.: Little, Brown, 1963).

— eds: *The Civic Culture Revisited* (Boston, Mass.: Little, Brown, 1980).

American Political Science Association (APSA): 'Toward a more responsible two-party system: a report of the committee on political parties', *American Political Science Review*, 44 (1950), supplement.

Arrow, K. J.: *Social Choice and Individual Values* (New Haven, Conn.: Yale University Press, 1951; 2nd edn, 1963).

—: *The Limits of Organization* (New York: Norton, 1974).

Axelrod, R.: *The Evolution of Cooperation* (New York: Basic Books, 1984).

—: 'An evolutionary approach to norms', *American Political Science Review*, 80 (1986), 1095–112.

Bardach, E.: *The Implementation Game* (Cambridge, Mass.: MIT Press, 1977).

Baron, D. P. and Ferejohn, J. A.: 'Bargaining in legislatures', *American Political Science Review*, 83 (1989), 1181–206.

Barry, B.: *Sociologists, Economists and Democracy*, rev. edn (Chicago, Ill.: University of Chicago Press, 1978).

—: *Democracy, Power and Justice* (Oxford: Clarendon Press, 1989).

Berelson, B. R., Lazarsfeld, P. F. and McPhee, W. N.: *Voting* (Chicago, Ill.: University of Chicago Press, 1954).

Berry, J. M.: *The Interest Group Society* (Boston, Mass.: Little, Brown, 1984).

Binder, L. et al.: *Crises and Sequences in Political Development* (Princeton, NJ: Princeton University Press, 1971).

Black, D.: *The Theory of Committees and Elections* (Cambridge: Cambridge University Press, 1958).

Bowles, S. and Gintis, H.: 'Social preferences, *homo economicus* and *zoon politikon*', in *Oxford Handbook of Contextual Political Analysis*, ed. Robert E. Goodin and C. Tilly (Oxford: Oxford University Press, 2006), pp. 172–86.

Brams, S. J. and Fishburn, P. C.: 'Approval voting', *American Political Science Review*, 72 (1978), 831–47.

Brennan, G. and Lomasky, L.: 'The impartial spectator goes to Washington', *Economics and Philosophy*, 1 (1985), 189–211.

Brewer, G. D. and de Leon, P.: *The Foundations of Policy Analysis* (Homewood, Ill.: Dorsey, 1983).

Budge, I.: *Agreement and the Stability of Democracy* (Chicago, Ill.: Markham, 1970).

Budge, I. and Hofferbert, R. I.: 'Mandates and policy outputs: US party platforms and federal expenditures', *American Political Science Review*, 84 (1990), 111–31.

Budge, I., Robertson, D. and Hearl, D., eds: *Ideology, Strategy and Party Change* (Cambridge: Cambridge University Press, 1987).

Burt, R. S.: *Structural Holes* (Cambridge, Mass: Harvard University Press, 1992).

Campbell, A., Converse, P. E., Miller, W. A. and Stokes, D.: *The American Voter* (New York: Wiley, 1960).

Cassen, R. et al.: *Does Aid Work?* (Oxford: Clarendon Press, 1986).

Christensen, T. and Lægreid, P.: 'New public management: puzzles of democracy and influence of citizens', *Journal of Political Philosophy*, 10 (2002), 267–95.

Clark, J. and Wildavsky, A.: *The Moral Collapse of Communism* (San Francisco, Calif.: ICS Press, 1990).

Cohen, G. A.: *Karl Marx's Theory of History* (Oxford: Clarendon Press, 1978).

Cohen, J. L. and Arato, A.: *Civil Society and Political Theory* (Cambridge, Mass.: MIT Press, 1992).

Collini, S., Winch, D. and Burrows, J.: *That Noble Science of Politics* (Cambridge: Cambridge University Press, 1983).

Converse, P.: 'The nature of belief systems in mass publics', in *Ideology and Discontent*, ed. D. Apter (New York: Free Press, 1964), pp. 206–61.

Cox, G.: *Making Votes Count* (Cambridge: Cambridge University Press, 1997).

Crozier, M., Huntington, S. P. and Watanuki, J.: *The Crisis of Democracy* (New York: New York University Press, 1975).

Dahl, R. A.: *Who Governs?* (New Haven, Conn.: Yale University Press, 1961).

—: *A Preface to Economic Democracy* (Berkeley, Calif.: University of California Press, 1985).

—: *Modern Political Analysis*, 6th edn, with B. Stinebrickner (Upper Saddle River, NJ: Prentice-Hall, 2002).

Dahl, R. A. and Lindblom, C. E.: *Politics, Economics and Welfare* (New York: Harper & Row, 1953).

Dahrendorf, R.: *Class and Class Conflict in Industrial Society* (Stanford, Calif.: Stanford University Press, 1959).

Djilas, M.: *The New Class* (New York: Praeger, 1957).
Downs, A.: *An Economic Theory of Democracy* (New York: Harper, 1957).
Dryzek, J. S.: 'Political inclusion and the dynamics of democratization', *American Political Science Review*, 90 (1996), 475–87.
Dryzek, J. S. and List, C.: 'Social choice theory and deliberative democracy: a reconciliation', *British Journal of Political Science*, 33 (2003), 1–28.
Duncan, G. and Lukes, S.: 'The new democracy', *Political Studies*, 11 (1963), 156–77.
Dunleavy, P.: *Democracy, Bureaucracy and Public Choice* (Hemel Hempstead: Harvester-Wheatsheaf, 1991).
Eckstein, H.: *Division and Cohesion in Democracy* (Princeton, NJ: Princeton University Press, 1966).
Elster, J.: *Making Sense of Marx* (Cambridge: Cambridge University Press, 1985).
Elster, J. and Moene, K. O., eds: *Alternatives to Capitalism* (Cambridge: Cambridge University Press, 1989).
Elster, J., Offe, C. and Preuss, U.: *Institutional Design in Post-communist Societies* (Cambridge: Cambridge University Press, 1998).
Esping-Andersen, G.: *Politics Against Markets* (Princeton, NJ: Princeton University Press, 1985).
—: *The Three Worlds of Welfare Capitalism* (Princeton, NJ: Princeton University Press, 1990).
Evans, P. B., Rueschemeyer, D. and Skocpol, T., eds: *Bringing the State Back In* (New York: Cambridge University Press, 1985).
Finer, S. E.: 'The political power of private capital', *Sociological Review*, 3 (1955), 279–94 and 4 (1956), 5–30.
Fiorina, M. P.: *Retrospective Voting in American National Elections* (New Haven, Conn.: Yale University Press, 1981).
Frohock, F. M. and Sylvan, D. J.: 'Liberty, economics and evidence', *Political Studies*, 31 (1983), 541–55.
Fung, A. and Wright, E. O., eds: *Deepening Democracy: Institutional Innovations in Empowered Participatory Governance* (London: Verso, 2003).
Garrett, G.: 'Global markets and national politics: collision course or virtuous circle?' *International Organization*, 52 (1998), 787–824.
Geertz, C., ed.: *Old Societies and New States* (New York: Free Press, 1963).
—: 'The judging of nations', *Archives Européenes de Sociologie*, 18 (1977), 245–61.
Gibbard, A.: 'Manipulation of voting schemes: a general result', *Econometrica*, 41 (1973), 587–601.
Goodin, R. E.: 'The development-rights trade-off', *Universal Human Rights* [now *Human Rights Quarterly*], 1 (1979), 31–42.
—: *Manipulatory Politics* (New Haven, Conn.: Yale University Press, 1980).
—: *Political Theory and Public Policy* (Chicago, Ill.: University of Chicago Press, 1982a).
—: 'Rational politicians and rational bureaucrats in Washington and Whitehall', *Public Administration*, 60 (1982b), 23–41.
—: *Protecting the Vulnerable* (Chicago, Ill.: University of Chicago Press, 1985).
—: 'Institutionalizing the public interest: the defense of deadlock and beyond', *American Political Science Review*, 90 (1996a), 331–43.
—: *The Theory of Institutional Design* (Cambridge: Cambridge University Press, 1996b).
—: 'Institutional gaming', *Governance*, 13 (2000), 523–33.
—: 'How amoral *is* Hegemon?' *Perspectives on Politics*, 1 (2003), 123–6.
Goodin, R. E. and Dryzek, J.: 'Rational participation: the politics of relative power', *British Journal of Political Science*, 10 (1980), 273–92.

—: 'Deliberative impacts: the macro-political uptake of mini-publics', *Politics & Society*, 34 (2006), 219–44.
Goodin, R. E., Headey, B., Muffels, R. and Dirven, H.-J.: *The Real Worlds of Welfare Capitalism* (Cambridge: Cambridge University Press, 1999).
Goodin, R. E. and Le Grand, J. et al.: *Not Only the Poor* (London: Allen & Unwin, 1987).
Goodin, R. E. and Niemeyer, S. J.: 'When does deliberation begin? Internal reflection versus public discussion in deliberative democracy', *Political Studies*, 51 (2003), 627–49.
Goodin, R. E. and Roberts, K. W. S.: 'The ethical voter', *American Political Science Review*, 69 (1975), 926–9.
Goodin, R. E. and Tilly, C., eds: *The Oxford Handbook of Contextual Political Analysis* (Oxford: Oxford University Press, 2006).
Gramsci, A.: *Selections from the Prison Notebooks*, ed. and trans. Q. Hoare and G. Nowell Smith (London: Lawrence & Wishart, 1971).
Green, D. P. and Shapiro, I.: *The Pathologies of Rational Choice* (New Haven, Conn.: Yale University Press, 1994).
Grofman, B.: 'Downs and two-party convergence', *Annual Review of Political Science*, 7 (2004), 25–46.
Hacker, J. S.: *The Divided Welfare State: The Battle Over Public and Private Social Benefits in the United States* (Cambridge: Cambridge University Press, 2002).
Hardin, R.: *Collective Action* (Baltimore, Md.: Johns Hopkins University Press, 1982).
Hechter, M.: *Internal Colonialism* (London: Routledge & Kegan Paul, 1975).
Heclo, H. and Wildavsky, A.: *The Private Government of Public Money* (London: Macmillan, 1974).
Hobbes, T.: *Leviathan* (London: Andrew Crooke, 1651).
Hogwood, B. W. and Peters, B. G.: *Policy Dynamics* (New York: St. Martin's, 1983).
Homans, G. C.: 'Bringing men back in', *American Sociological Review*, 29 (1964), 809–18.
Horowitz, D. L.: *A Democratic South Africa? Constitutional Engineering in a Divided Society* (Berkeley, Calif.: University of California Press, 1991).
Huckfeldt, R., Johnson, P. E. and Sprague, J.: *Political Disagreement: The Survival of Diverse Opinions within Communication Networks* (Cambridge: Cambridge University Press, 2004).
Hunter, F.: *Community Power Structures* (Chapel Hill, NC: University of North Carolina Press, 1953).
Huntington, S. P.: *Political Order in Changing Societies* (New Haven, Conn.: Yale University Press, 1968).
Jackman, R.: *Politics and Social Equality* (New York: Wiley, 1972).
Jacobson, G. C.: *Money in Congressional Elections* (New Haven, Conn.: Yale University Press, 1980).
Janis, I. L.: *Groupthink*, 2nd edn (Boston, Mass.: Houghton Mifflin, 1982).
Kaufman, H.: *Are Government Organizations Immortal?* (Washington, DC: Brookings Institution, 1977).
Keohane, R. O.: *After Hegemony* (Princeton, NJ: Princeton University Press, 1984).
Kettl, D. F.: *The Global Public Management Revolution* (Washington, DC: Brookings Institution, 2000).
Key, V. O., Jr.: *The Responsible Electorate* (Cambridge, Mass.: Harvard University Press, 1966).
Kiewiet, D. R.: *Micropolitics and Macroeconomics* (Chicago, Ill.: University of Chicago Press, 1983).
Kinder, D. R. and Herzog, D.: 'Democratic discussion', in *Reconsidering the Democratic Public*, ed. G. E. Marcus and R. L. Hanson (University Park, Penn.: Pennsylvania State University Press, 1993), pp. 347–77.
King, A.: 'Overload', *Political Studies*, 23 (1975), 284–96.

King, D. S. and Waldron, J.: 'Citizenship, social citizenship and the defence of welfare provision', *British Journal of Political Science*, 18 (1988), 415–44.
Kirchheimer, O.: 'Changes in the structure of political compromise', in *Politics, Law and Social Change*, ed. F. S. Burin and K. L. Shell (New York: Columbia University Press, 1969), pp. 131–59.
Kirshner, J: *Currency and Coercion: The Political Economy of International Monetary Power* (Princeton, NJ: Princeton University Press, 1995).
Klingemann, H.-D., Hofferbert, R. I. and Budge, I: *Parties, Policies and Democracy* (Boulder, Col.: Westview, 1994).
Kramer, G. H.: 'The ecological fallacy revisited: aggregate- versus individual-level findings on economics and elections, and sociotropic voting', *American Political Science Review*, 77 (1983), 92–111.
La Porte, T. R., ed.: *Organized Social Complexity* (Princeton, NJ: Princeton University Press, 1975).
Laclau, E. and Mouffe, C.: *Hegemony and Socialist Strategy* (London: Verso, 1985).
Lane, R. E.: 'Waiting for lefty: the capitalist genesis of socialist man', *Theory & Society*, 6 (1978), 1–28.
—: *The Market Experience* (Cambridge: Cambridge University Press, 1991).
Lange, O.: 'On the economic theory of socialism', *Review of Economic Studies*, 4 (1936–7), 53–71 and 123–42.
Lasswell, H. D.: *Politics: Who Gets What, When, How?* (New York: P. Smith, 1950).
Laver, M. and Shepsle, K. A.: *Making and Breaking Governments: Cabinets and Legislatures in Parliamentary Democracies* (Cambridge: Cambridge University Press, 1996).
Levine, H. D.: 'Some things to all men: the politics of cruise missile development', *Public Policy*, 7 (1972), 117–68.
Lijphart, A.: 'The Northern Ireland problem', *British Journal of Political Science*, 5 (1975a), 83–106.
—: *The Politics of Accommodation*, 2nd edn (Berkeley, Calif.: University of California Press, 1975b).
—: *Democracy in Plural Societies* (New Haven, Conn.: Yale University Press, 1977).
—: *Patterns of Democracy* (New Haven, Conn.: Yale University Press, 1999).
Lindblom, C. E.: 'The science of muddling through', *Public Administration Review*, 19 (1959), 79-8-8.
—: *The Intelligence of Democracy* (New York: Free Press, 1965).
—: *Politics and Markets* (New York: Basic Books, 1977).
Linz, J. J. and Stepan, A.: *Problems of Democratic Transition and Consolidation* (Baltimore, Md.: Johns Hopkins University Press, 1996).
Lipset, S. M. and Rokkan, S., eds: *Party Systems and Voter Alignments* (New York: Free Press, 1967).
Lipsky, M.: *Street Level Bureaucracy* (New York: Russell Sage, 1980).
Lukes, S.: *Power: A Radical View*, 2nd edn (Basingstoke: Palgrave Macmillan, 2005).
Lupia, A. and McCubbins, M. D.: *The Democratic Dilemma: Can Citizens Learn What They Need to Know?* (Cambridge: Cambridge University Press, 1998).
Luskin, R. C., Fishkin, J. S. and Jowell, R.: 'Considered opinions: deliberative polling in Britain', *British Journal of Political Science*, 32 (2002), 455–88.
Macedo, S., et al.: *Democracy at Risk* (Washington, DC: Brookings Institution, 2005).
Mackie, G.: *Democracy Defended* (Cambridge: Cambridge University Press, 2003).
Mann, M.: 'The social cohesion of liberal democracy', *American Sociological Review*, 35 (1970), 423–39.
—: *The Sources of Social Power*, 2 vols (Cambridge: Cambridge University Press, 1986, 1993).

Mansbridge, J. J., ed.: *Beyond Self-interest* (Chicago, Ill.: University of Chicago Press, 1990).
—: 'Self-interest and political transformation', *Reconsidering the Democratic Public*, ed. G. E. Marcus and R. L. Hanson (University Park, Penn.: Pennsylvania State University Press, 1993), pp. 91–112.
March, J. G.: 'Model bias in social action', *Review of Educational Research*, 42 (1972), 413–29.
—: 'The technology of foolishness', in *Ambiguity and Choice in Organizations*, ed. J. P. Olsen and J. G. March et al. (Bergen: Universitetsforlaget, 1976), pp. 69–81.
March, J. G. and Olsen, J. P.: 'The new institutionalism: organizational factors in political life', *American Political Science Review*, 78 (1984), 734–49.
—: 'Popular sovereignty and the search for appropriate institutions', *Journal of Public Policy*, 6 (1986), 341–70.
—: *Rediscovering Institutions* (New York: Free Press, 1989).
—: *Democratic Governance* (New York: Free Press, 1995).
— et al.: *Ambiguity and Choice in Organizations* (Bergen: Universitetsforlaget, 1976).
Marshall, T. H.: 'Citizenship and social class', in *Class, Citizenship and Social Development* (Chicago, Ill.: University of Chicago Press, 1963), pp. 70–134.
McCloskey, H. A.: 'Consensus and ideology in American politics', *American Political Science Review*, 58 (1964), 361–82.
McFarland, A. S.: *Public Interest Lobbies* (Washington, DC: American Enterprise Institute, 1976).
—: 'Interest groups and theories of power in America', *British Journal of Political Science*, 17 (1987), 129–48.
McKelvey, R. D.: 'General conditions for global intransitivities in formal voting models', *Econometrica*, 47 (1979), 1085–112.
Merton, R. K.: 'The unintended consequences of purposive social action', *American Sociological Review*, 1 (1936), 894–904.
Miller, D.: 'Deliberative democracy and social choice', *Prospects for Democracy*, ed. D. Held (Oxford: Blackwell, 1992), pp. 54–67.
Miller, G. J.: *Managerial Dilemmas* (Cambridge: Cambridge University Press, 1992).
Moe, T.: 'The new economics of organization', *American Journal of Political Science*, 6 (1984), 1–28.
Moore, B. Jr.: *Social Origins of Dictatorship and Democracy* (Harmondsworth: Penguin, 1967).
Moran, M.: *The British Regulatory State* (Oxford: Oxford University Press, 2003).
Moran, M., Goodin, R. E. and Rein, M., eds*: Oxford Handbook of Public Policy* (Oxford: Oxford University Press, 2006).
Niemi, R. G. and Weisberg, H. F.: 'A mathematical solution for the probability of the paradox of voting', *Behavioral Science*, 13 (1968), 317–23.
Niskanen, W. A.: *Bureaucracy and Representative Government* (Chicago, Ill.: Aldine-Atherton, 1971).
Nye, J. S. Jr.: *Soft Power* (New York: Public Affairs, 2004).
O'Donnell, G., Schmitter, P. C. and Whitehead, L., eds: *Transitions from Authoritarian Rule: Prospects for Democracy* (Baltimore, Md.: Johns Hopkins University Press, 1986).
Olsen, J. P.: 'Public policy-making and theories of organizational choice', *Scandinavian Political Studies*, 7 (1972), 45–62.
Olson, M. Jr.: *The Logic of Collective Action* (Cambridge, Mass.: Harvard University Press, 1965).
Orbell, J. M., von de Kragt, A. J. C. and Dawes, R. M.: 'Explaining discussion-induced cooperation', *Journal of Personality and Social Psychology*, 54 (1988), 811–19.
Ordeshook, P. C.: *Game Theory and Political Theory* (Cambridge: Cambridge University Press, 1986).
Ostrom, E.: *Governing the Commons* (Cambridge: Cambridge University Press, 1990).

Oye, K. A., ed.: *Cooperation under Anarchy* (Princeton, NJ: Princeton University Press, 1986).
Page, B. I.: *Choices and Echoes in Presidential Elections* (Chicago, Ill.: University of Chicago Press, 1978).
—: *Who Gets What from Government?* (Berkeley, Calif.: University of California Press, 1983).
—: *Who Deliberates?* (Chicago, Ill.: University of Chicago Press, 1996).
Page, B. I. and Shapiro, R. Y.: *The Rational Public* (Chicago, Ill.: University of Chicago Press, 1992).
Parkin, F.: *Class Inequality and Political Power* (London: MacGibbon & Kee, 1971).
Pateman, C.: *Participation and Democratic Theory* (Cambridge: Cambridge University Press, 1970).
—: 'Political culture, political structure and political change', *British Journal of Political Science*, 1 (1971), 291–305.
—: *The Disorder of Women* (Oxford: Polity Press, 1989).
Pechman, J. A.: *Who Bears the Tax Burden?* (Washington, DC: Brookings Institution, 1974).
Petrocik, J. R.: 'Issue ownership and presidential campaigning, 1952–2000', *Political Science Quarterly*, 118 (2003), 599–626.
Pharr, S. J. and Putnam, R. D., eds: *Disaffected Democracies* (Princeton, NJ: Princeton University Press, 2000).
Pierson, P: *Politics in Time* (Princeton, NJ.: Princeton University Press, 2004).
Polletta, F. and Ho, M. K.: 'Frames and their consequences', in *Oxford Handbook of Contextual Political Analysis*, ed. R. E. Goodin and C. Tilly (Oxford: Oxford University Press, 2006), pp. 187–209.
Polsby, N. W.: *Community Power and Political Theory*, 2nd edn (New Haven, Conn.: Yale University Press, 1980).
Pomper, G.: *Elections in America* (New York: Dodd, Mead, 1968).
Popkin, S., et al.: 'What have you done for me lately?' *American Political Science Review*, 70 (1976), 779–805.
Powell, G. B. Jr.: 'Political representation in comparative politics', *Annual Review of Political Science*, 7 (2004), 273–96.
Prothro, J. W. and Grieg, C. W.: 'Fundamental principles of democracy: bases of agreement and disagreement', *Journal of Politics*, 22 (1960), 276–94.
Przeworski, A.: *Democracy and the Market* (Cambridge: Cambridge University Press, 1991).
—: 'Minimalist conception of democracy: a defense', in *Democracy's Value*, ed. I. Shapiro and C. Hacker-Cordón (Cambridge: Cambridge University Press, 1999), pp. 23–55.
Przeworski, A. and Sprague, J.: *Paper Stones: A History of Electoral Socialism* (Chicago, Ill.: University of Chicago Press, 1986).
Putnam, R. D.: *Making Democracy Work: Civic Traditions in Modern Italy* (Princeton, NJ: Princeton University Press, 1993).
—: *Bowling Alone: The Collapse and Revival of American Community* (New York: Simon & Schuster, 2000).
Radin, M. J.: *Contested Commodities* (Cambridge, Mass.: Harvard University Press, 1996).
Rae, D. W.: *The Political Consequences of Electoral Laws* (New Haven, Conn.: Yale University Press, 1967).
Rawls, J.: *A Theory of Justice* (Cambridge, Mass.: Harvard University Press, 1971).
—: *Political Liberalism* (New York: Columbia University Press, 1993).
Reilly, B.: *Democracy in Divided Societies: Electoral Engineering for Conflict Management* (Cambridge: Cambridge University Press, 2001).
Rhodes, R. A. W.: *Beyond Westminster and Whitehall* (London: Unwin Hyman, 1988).
Rhodes, R. A. W., Binder, S. A. and Rockman, B. A., eds: *Oxford Handbook of Political Institutions* (Oxford: Oxford University Press, 2006).

Riker, W. H.: *Theory of Political Coalitions* (New Haven, Conn.: Yale University Press, 1962).
—: *Liberalism against Populism* (San Francisco, Calif.: W. Freeman, 1983).
Roemer, J.: *A General Theory of Exploitation and Class* (Cambridge, Mass.: Harvard University Press, 1982).
— ed.: *Analytical Marxism* (Cambridge: Cambridge University Press, 1986).
Rogowski, R.: *Rational Legitimacy* (Princeton, NJ: Princeton University Press, 1974).
Rohrschneider, R.: 'Citizens' attitudes toward environmental issues: selfish or selfless?' *Comparative Political Studies*, 21 (1988), 347–67.
Rose, R.: *Governing Without Consensus* (London: Faber & Faber, 1971).
Rose, R. and Peters, B. G.: *Can Government Go Bankrupt?* (New York: Free Press, 1978).
Rothstein, B.: *Social Traps and the Problem of Trust* (Cambridge: Cambridge University Press, 2005).
Rousseau, J.-J.: *The Social Contract*, trans. G. D. H. Cole (London: Dent, 1973; originally published 1762).
Rustow, D. A.: 'Transitions to democracy', *Comparative Politics*, 2 (1970), 337–63.
Sartori, G.: *Comparative Constitutional Engineering* (Basingstoke: Palgrave Macmillan, 1994)
Satterthwaite, M. A.: 'Strategy-proofness and arrow's conditions', *Journal of Economic Theory*, 10 (1975), 187–217.
Schneewind, J. B.: 'Modern moral philosophy', in *A Companion to Ethics*, ed. P. Singer (Oxford: Blackwell, 1991), pp. 147–57.
Schofield, N.: 'Instability of simple dynamic games', *Review of Economic Studies*, 45 (1976), 575–94.
Schumpeter, J. A.: *Capitalism, Socialism and Democracy*, 3rd edn (New York: Harper & Row, 1950).
Scott, J. C.: *Seeing Like a State* (New Haven, Conn.: Yale University Press, 1997).
Sears, D. O., Lau, R. R., Tyler, T. R. and Allen, H. M. Jr.: 'Self-interest vs. symbolic politics in policy attitudes and presidential voting', *American Political Science Review*, 74 (1980), 670–84.
Sen, A. K.: 'Rational fools', *Philosophy & Public Affairs*, 6 (1977a), 317–44.
—: 'Social choice theory: a re-examination', *Econometrica*, 45 (1977b), 53–89.
Shapiro, I.: 'The state of demcratic theory', in *Political Science: State of the Discipline*, ed. I. Katznelson and H. V. Milner (New York: Norton, for the American Political Science Association, 2002), pp. 235–65.
Shepsle, K. and Weingast, B.: 'Structure induced equilibrium and legislative choice', *Public Choice*, 37 (1981), 503–19.
—: 'Political solutions to market problems', *American Political Science Review*, 78 (1984), 417–34.
—: 'The institutional foundations of committee power', *American Political Science Review*, 81 (1987), 85–104.
Simon, H. A.: *The Sciences of the Artificial*, 2nd edn (Cambridge, Mass.: MIT Press, 1981).
—: *Models of Bounded Rationality* (Cambridge, Mass.: MIT Press, 1982).
—: 'Human nature is politics: the dialogue of psychology and political science', *American Political Science Review*, 79 (1985), 293–304.
—: 'Public administration in today's world of organizations & markets', *PS: Political Science & Politics*, 33 (2000), 749–56.
Skocpol, T.: *Protecting Soldiers and Mothers: The Political Origins of Social Policy in the United States* (Cambridge, Mass.: Harvard University Press, 1992).
Skocpol, T. and Fiorina, M., eds: *Civic Engagement in American Democracy* (Washington, DC: Brookings Institution, 1999).
Snidal, D.: 'The limits of hegemonic stability theory', *International Organization*, 39 (1985), 579–614.

Sniderman, P. M., Fletcher, J. F., Russell, P. H., Tetlock, P. E. and Gaines, B. J.: 'The fallacy of democratic elitism: elite competition and commitment to civil liberties', *British Journal of Political Science*, 21 (1991), 349–70.
Steiner, J. and Dorff, R. H.: *A Theory of Political Decision Modes* (Chapel Hill, NC: University of North Carolina Press, 1980).
Steiner, J., Bächtiger, A., Spörndli, M. and Steenbergen, M.R.: *Deliberative Politics in Action: Cross-national Study of Parliamentary Debates* (Cambridge: Cambridge University Press, 2004).
Stigler, G. J.: 'Director's law of public income redistribution', *Journal of Law & Economics*, 13 (1970), 1–10.
Stiglitz, J. E.: *Globalization and Its Discontents* (Harmondsworth: Penguin, 2002).
Stinchcombe, A. L.: *When Formality Works* (Chicago, Ill.: University of Chicago Press, 2001).
Suleiman, E.: *Dismantling Democratic States* (Princeton, NJ: Princeton University Press, 2003).
Sunstein, C. R.: 'The law of group polarization', *Journal of Political Philosophy*, 10 (2002), 175–95.
Taylor, M.: *The Possibility of Cooperation* (Cambridge: Cambridge University Press, 1987).
Taylor, M. and Laver, M.: 'Government coalitions in Western Europe', *European Journal of Political Research*, 1 (1973), 205–48.
Therborn, G.: *What Does the Ruling Class Do When It Rules?* (London: New Left Books, 1978).
Thompson, D. F.: *The Democratic Citizen* (Cambridge: Cambridge University Press, 1970).
Tobin, J.: 'On limiting the domain of inequality', *Journal of Law and Economics*, 13 (1970), 363–78.
Tsebelis, G.: *Veto Players: How Political Institutions Work* (Princeton, NJ: Princeton University Press, 2002).
Tushnet, M.: *Taking the Constitution Away from the Courts* (Princeton, NJ: Princeton University Press, 1999).
Useem, M.: *The Inner Circle* (New York: Oxford University Press, 1984).
Uslaner, E. M.: 'Comity in context', *British Journal of Political Science*, 21 (1991), 45–78.
van der Brug, W.: 'Issue ownership and party choice', *Electoral Studies*, 23, (2004), 209–33.
Van Parijs, P.: 'A basic income for all', in *What's Wrong with a Free Lunch?* ed. P. Van Parijs et al. (Boston, Mass.: Beacon Press, 2001), pp. 3–28.
Verba, S. and Nie, N. H.: *Participation in America* (New York: Harper & Row, 1972).
Verba, S., Nie, N. H. and Kim, J.-O.: *Participation and Political Equality: A Seven-Nation Comparison* (Cambridge: Cambridge University Press, 1978).
Verba, S., Scholzman, K. L. and Brady, H. E.: *Voice and Equality: Civic Voluntarism in American Politics* (Cambridge, Mass.: Harvard University Press, 1995).
Wallerstein, I.: *The Modern World-System* (New York: Academic Press, 1974).
Ward, H.: 'Structural power – a contradiction in terms?' *Political Studies*, 35 (1987), 593–610.
Weaver, R. K. and Rockman, B. A., eds: *Do Institutions Matter? Government Capabilities in the United States and Abroad* (Washington, DC: Brookings Institution, 1993).
Weingast, B. R. and Marshall, W.: 'The industrial organization of Congress; or, why legislatures, like firms, are not organized as markets', *Journal of Political Economy*, 96 (1988), 132–63.
Wendt, A. E.: 'The agent–structure problem in international relations theory', *International Organization*, 41 (1987), 335–70.
Wildavsky, A.: 'If planning is everything, maybe it's nothing', *Policy Sciences*, 4 (1973), 127–53.
Wilensky, H. L.: *The Welfare State and Equality* (Berkeley, Calif.: University of California Press, 1975).
Wilson, J. Q.: 'Interests and deliberation in the American republic', *PS: Political Science & Politics*, 23 (1990), 558–62.
Winner, L.: 'Do artifacts have politics?' *Daedalus*, 109 (Winter 1980), 121–36.

Wittfogel, K. A.: *Oriental Despotism* (New Haven, Conn.: Yale University Press, 1957).
Wittman, D.: 'Parties as utility maximizers', *American Political Science Review*, 67 (1973), 490–98.
Wolf, C. Jr.: *Markets or Governments* (Cambridge, Mass.: MIT Press, 1988).
World Bank: *World Development Report 1997: The State in a Changing World* (Oxford: Oxford University Press for the World Bank, 1997).
Wrong, D.: 'The over-socialized conception of man in modern sociology', *American Sociological Review*, 26 (1961), 184–93.
Yankelovich, D.: *Coming to Public Judgment* (Syracuse, NY: Syracuse University Press, 1991).
Zolberg, A.: 'Moments of madness', *Politics & Society*, 2 (1972), 183–208.
Zweigenhaft, R. L. and Domhoff, G. W.: *Diversity in the Power Elite: Have Women and Minorities Reached the Top?* (New Haven, Conn.: Yale University Press, 1998).

Further reading

Goodin, R. E. and Klingemann, H.-D., eds: *A New Handbook of Political Science* (Oxford: Oxford University Press, 1996).
Lipset, S. M., ed.: *Politics and the Social Sciences* (New York: Oxford University Press, 1969).
Shapiro, I.: *The State of Democratic Theory* (Princeton, NJ: Princeton University Press, 2003).
Verba, S.: 'Representative democracy and democratic citizens: philosophical and empirical understandings', *Tanner Lectures on Human Values*, 21 (2000), 229–88.

Chapter 8

International Relations

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Introduction

The study of international relations owes a great deal to political philosophy. Many of the central analogies and concepts in international relations derive from prominent philosophical traditions. Here, I focus on three areas in which political philosophy has made an important impact on international relations theory: anarchy and political order, democracy, and justice. Many other important areas of international politics invoke philosophical inquiry, such as just war, human rights and humanitarian intervention, which I will not discuss here. In international relations, three philosophers occupy centre stage when discussing these ideas: Hobbes, Kant and Rawls. I discuss how scholars in international relations have used these thinkers to develop theories of international politics. I also ask what political philosophy might gain from a greater knowledge of the field of international relations, which raises the question of the relationship between normative and empirical research. Overall, I argue that greater interaction between normative and empirical research is a valuable goal.

A central issue facing international relations is the extent to which one can draw analogies from domestic politics where actors interact within a defined political community. Political philosophy usually assumes a political community as a background condition or theorizes about the conditions under which a (ideal) political community can be constructed. Much of international relations (and political philosophy) rejects the idea that such political community exists beyond the borders of states. But this very question stokes many of the most important debates in international relations: to what extent does there exist a political community among nations? Answering this question relies on empirical analysis, but addressing the question of what counts as a political community relies heavily on philosophical justifications. Here lies the very important intersection between philosophy and international relations and empirical and normative research.

Political Order and Anarchy – Hobbes and the International State of Nature

Relations among states are often contrasted to relations within a political community, especially the state, where political order and even hierarchy are said to reign (Waltz, 1959; 1979). Instead, international relations is conceived of as a realm of anarchy. Among states there is assumed to be no political community, but rather a state of nature-like relationship. Anarchy need not imply that there is a lack of order or an actual war of all against all; there can be 'order', but it is not like domestic order within a political community (Tucker, 1977; Milner, 1991). Order in international relations, it is claimed, depends on the threat or actual use of power or force; the strongest impose their views and desires upon the rest since no well-accepted set of rules guides relations and third-party adjudication is not accepted. No legitimate monopoly over the use of force exists internationally; instead each state has the right to do whatever is necessary to secure (and advance) itself. Self-help prevails globally, while the rule of law governs domestically (Waltz, 1959; 1979).

This image of an anarchical realm is often attributed to Hobbes's view of the world before Leviathan, his version of the state of nature (for a philosophical dissent about the use of Hobbes to justify this position, see Malcolm, 2002). In such an anarchical world all fear for their security; industry is impossible; and life is solitary, poor, nasty, brutish and short (*Leviathan*, pt I, ch. XIII). There is no government, and hence there is no room for morality or justice. All exist in fear since sovereignty is dependent on one's own capacities and ability to deter others from trying to destroy or enslave you. Hobbes, and Machiavelli to some extent, serve as guides to operating in this anarchical realm, especially for so-called Realists. Realism in international relations views this state of nature before Leviathan as the only true analogy for relations among states. Realism as a theory of international relations is distinct from realism in philosophy. Most of political philosophy is not relevant for them since it concerns a world of government and hierarchy – that is, one where norms, rules and institutions matter.

As critics of realism have noted, this analogy depends on political communities and individuals being conceptually similar. Hobbes begins his volume on Leviathan with a dissection of human nature, arguing that individuals are by and large equal in their abilities. This equality poses great problems, for without a common power to keep them all in awe, individuals exist in anarchy. Kratochwil (1989), for one, has shown why this analogy between political communities and individuals is deeply flawed, thus undercutting the realists' case for construing the international system as an anarchical one in Hobbes's terms. Others have pointed out that relations among states vary along a continuum of anarchy and hierarchy just as do relations within states, and that the nature of these relations should be conceived of as a variable along this continuum, not as a constant (Milner, 1991). And still others have noted that anarchy is not a condition that states face exogenously, but rather is constructed by how states choose to interact with one another. The state of the international system is what such communities make of it; it is not naturally anarchical (Wendt, 1992).

The image of anarchy drawn from Hobbes (1968), combined with the advice to princes operating in amoral environments borrowed from Machiavelli ([1532] 1950),

nevertheless constitutes a powerful set of theoretical lenses through which scholars understand international relations. They appropriate from Hobbes and Machiavelli those elements of their theories that bolster this image. Amoralism and statecraft guided by the national interest alone, the incapacity of international justice, the weakness of international obligations and institutions, the centrality of power and relative capabilities, the need for balancing to prevent hegemony, and the eternal fear of and vigilance against all other political communities become the causal outcomes of this anarchical international system. These causal relations are defended in part as they are claimed to derive from the philosophical systems of Hobbes and Machiavelli.

The possibilities for political order in such a system are limited, as Hobbes foresaw. Order, if it is ever achieved in an anarchical realm, comes from one fundamental source: power. For realists, political communities existing in anarchy can find order through the overbearing domination of one community – i.e., hegemony – or through the careful balance of power among the leading communities. Order does not arise through the creation of a constitution upon which all communities agree rationally to abide; that is, Leviathan in international politics is not a rationally accepted government but rather one imposed through the power resources of the strongest community, or communities. Morality, justice and the rule of law in such environments, as E. H. Carr (1946) noted, are merely the impositions of the will of the strongest. Such claims are not unknown in the world of political philosophy; see, for instance, critical legal theory. The creation of order in anarchy then precludes the construction of well-accepted norms, rules and justice since order depends on the threat of war.

Political philosophy, however, teaches that different conceptions of the state of nature can exist. Locke's and Rousseau's visions of anarchy – that is, of the state of nature before government – are much less dire than Hobbes's, and thus their 'solutions' to the problems of the state of nature are much less 'hierarchical' than Hobbes's. This initial set of assumptions about the international system is important for theories of international relations, as it is for social contract theory in general. Starting from a different state of nature makes possible a greater role for international justice, institutions and co-operation. Unfortunately, this alternative route to theory in international relations has not been developed as it has in political philosophy; even the main competition for realism today, neoliberal institutionalism, starts from the same assumptions about the state of nature. Neoliberal institutionalists have gone beyond the causal claims of the realists, however; they have used the same assumptions to generate different predictions about state behaviour, ones suggesting that order and co-operation are much more common. Two examples of alternative state-of-nature theorizing are Hedley Bull and Alexander Wendt.

Realists in international relations, of course, exploit the uncertainty that one has chosen the 'wrong' state of nature to push theoretical discourse back to the Hobbesian world. Empirical work that suggests a less brutish anarchical system is treated suspiciously, often rationalized as a manifestation of underlying power relations (e.g., Mearsheimer, 1994/95). The Hobbesian image of an anarchical international system thus is strongly self-reinforcing.

Democracy and Regime Type – Kant and the Democratic Peace

In recent years international relations has discovered the value of democracy as a type of political regime – both at the domestic level and internationally. The problem of individual equality that Hobbes recognized for the construction of political order was gradually resolved through the development of theories of democracy. This move in political philosophy was slow to reach international relations, even though Kant originally wrote about this 'perpetual peace' in 1795. Kant's ideas about the value of democracy for peace have been elaborated and empirically tested in the past few decades (e.g., Doyle, 1983a,b; 1986; Maoz and Russett, 1993; Russett and Oneal, 2001; Schultz, 2001; Reiter and Stam, 2002). However, Kant distinguished democracy from republicanism, seeing the latter as most important for perpetual peace. Kant sees republicanism as a form of sovereignty, while democracy is a form of government (1972, section 352–3). The democratic peace argues that democracies do not fight each other; theory and evidence reveal that democracies have a separate peace and are more likely to co-operate with each other in alliances and economic relations. While there is much consensus about the democratic peace, there is not unanimous support (e.g., Layne, 1994; Mansfield and Snyder, 1995). Different causal arguments exist about how democracy domestically produces peace internationally. Kant and the original theorists of the democratic peace underscored three reasons for this: the constitutional restraints imposed by democratic (republican) government at home, and the shared economic interests and mutual respect for human rights that develop among democracies in world politics (e.g., Doyle, 1986; Maoz and Russett, 1993). Recent theorists of the democratic peace have developed similar arguments. Some scholars note how norms for conflict resolution developed internally by democracies are externalized, thus creating a zone of democratic peace globally (e.g., Maoz and Russett, 1993). Wendt (1999), for instance, has emphasized the way in which the diffusion of democracy and its norms have changed the international system from one where political communities face each other as (potential) enemies to one where they see each other as friends.

More recent theorists in international relations have developed arguments that emphasize different factors, mainly the signalling value that democracy provides to governments in world politics of the credibility of their threats and commitments (Fearon, 1994; Schultz, 2001). Rationalist arguments and more sociological ones are used to explain the democratic peace and how it changes the anarchic world of international relations into one where war and the use of force are rare if not unthinkable, as in most domestic political communities. The democratic peace argument fundamentally challenges the realist version of international relations; among democracies anarchy does not reign. Kant's vision of international politics is embraced in the democratic peace literature, while realists prefer the Hobbesian one.

The debates over the democratic peace have been vigorous. One of the first debates concerned the definition and identification of democracy. Some critics have claimed that arbitrary definitions and identification of democracies have ruled out some cases of war. Having a clear and consistent definition of democracy is important for

numerous reasons, one of which is the need to identify the particular features of all democracies and causally link them to the lack of war among such countries. Unfortunately, political philosophy does not provide definitive guidance.

Debate remains about what democracy is; indeed, it remains an 'essentially contested' concept. Kant originally chose the term 'republican' for the type of political regime he was discussing and he included a number of institutional features in his description of this form of government, including the separation of powers and representative governments. Rousseau provided a more substantive definition of democracy focusing on the general will, which has animated much debate. Schumpeter ([1942] 1976), of course, has contrasted sharply the procedural definition focused on competitive elections to replace leaders with the more substantive vision of democracy as implementing the people's will. Dahl's *Polyarchy* (1971) contains another important definition, focusing on participation and opposition. Pettit (2000) has argued for adding contestatory elements to the Schumpeterian focus on elections. More recent philosophical work has focused on deliberation as the central element (e.g., Habermas, 1984; Cohen and Arato, 1992). Lack of consensus in philosophy over the concept of democracy is also a hindrance to progress in international relations.

Research on the democratic peace often avoids discussions of what democracy is. It implicitly assumes it is more procedural than substantive and focuses on factors like constraints on the executive as well as competitive and fair elections. Indeed, the standard empirical measure used for democracy is the Polity index, which combines indictors of democracy and autocracy into a single scale. This index combines data on five factors that capture the institutional differences between democracies and autocracies. Other measures exist and some are more conceptually tied to a notion of democracy – for example, Przeworski et al. (2000), which uses Schumpeter's concept.

One issue has been how well such empirical measures tap the elements of democracy that are most important for the *theory* of the democratic peace. Since that theory is not well defined either, the match between empirical evidence and theory has been problematic.

A second debate surrounding the democratic peace that touches on philosophy involves the causal mechanisms. What is it about democracies, especially pairs of them, that produces peace? How do democracies overcome the Hobbesian anarchy of international politics? Kant's claim rests on three elements, one of which involves republican government at home. His central argument is that in representative governments with separation of powers leaders will be punished if they elect for war since war hurts citizens through the extra taxes and deficits (not to mention the deaths) it generates. Most of the democratic peace literature avoids this line of argument since it cannot account for the fact that democracies do fight (almost as often as autocracies), but just not with other democracies. Instead, the literature has developed two other claims: a rationalist one based on information provision and credible commitments, and a sociological one based on shared norms. The latter one might be consistent with Kant's emphasis on cosmopolitanism, but seems different in emphasizing how democracies jointly adopt peaceful strategies for adjudicating conflicts from their domestic experiences. Developing a better connection between the concept of democracy and its causal impact on international politics is important and constitutes a joint endeavour for political philosophy and international relations.

A second aspect of democracy in international relations relates to evaluation of international institutions. Scholars have asked whether and how the concept of democracy can be applied internationally. Are international institutions – and should they be – democratic and in what sense? This topic has risen to prominence as more and more international institutions have been created and taken over more areas of policy making. A sense has developed that domestic governments are losing control of important areas of policy and that this is creating a 'democratic deficit'. International institutions do not generally operate along democratic lines; most were not designed with democracy in mind. This concern has long been raised in the context of the European Community and even more so in the current European Union.

Can and should these institutions be democratic? If so, what do we mean by democracy in this context? And if not, what does this imply for democracy at home? Most international institutions are set up so that they have representatives from different countries involved in their bodies and some have weighted voting where the more powerful or rich countries hold advantages. Bureaucracies run many of these institutions with the advice and consent of the most powerful countries; few, if any, would be recognized as being democratic. Applying democratic standards to international institutions raises philosophical debates about the concept of democracy. Should these institutions 'represent' the interests of the general publics that they encompass in many countries? Should they focus on establishing institutions that ensure competitive and fair elections of leaders so that they can be evicted from office if they do not produce popular outcomes? Or should they focus on creating an environment where real deliberation can proceed?

A prior question is whether we should apply democratic standards to them. On the one hand, if globalization and the spread of international institutions are usurping the role of national governments, then for democracy simply to be maintained at its current level these institutions must become more democratic. If nations can no longer solve their most important problems domestically and must turn to global institutions, then it seems natural to make those institutions the place for democratic decision making.

On the other hand, many scholars would say no to this question since international relations does not constitute a realm involving a unified, legitimate political community. Without such a community (and the 'constitution' that goes with it), there is no public basis for democracy; there is no demos and no social contract. Grant and Keohane (2005), among others, have tried to move the debate away from traditional notions of democracy. Democratic norms like participation and checks and balances may not be possible, but other mechanisms for ensuring accountability can apply at the global level. Standards for behaviour can be developed; sanctions for violations of those standards can be used; and information and transparency can be provided to allow groups to monitor and sanction non-governmental and international institutions.

This debate about democracy as a criterion for evaluating international institutions raises the question of the suitability of domestic analogies for international relations. While questioning the Hobbesian analogy of international relations for too rigidly separating international and domestic politics, one must also ask whether analogies about democratic theory can be seamlessly applied to world politics (Dahl, 1999). To evaluate global governance, we may have to develop new theories or modify old ones

about optimal forms of governance, a task requiring collaboration among philosophers and international relations scholars.

Justice and International Relations: Rawls and the Cosmopolitans

Should justice as a criterion be applied to the relations among states? Much of international relations has rejected asking whether the international system is just since this is irrelevant in a world of anarchy. For realists, this question is not meaningful since Hobbesian anarchy rules out the possibility of justice among countries, pointing to Thucydides' Melian dialogue to underscore this point. Further, distributive justice induces even greater concerns since if power is what keeps a state secure, giving away any resources to another state that can be used to exercise power is to endanger the donor state's own security. Fears about relative gains make distributive justice unthinkable for many in international relations. This is not to say that no one in international relations has ever moved beyond this position. Dependency theory suggested a cause for (growing) inequality in world affairs and a cure for it. Recent anti-globalization research has questioned much of this, and returned to the themes of the dependency theorists.

The most important step in considerations of global justice, however, comes from the work of John Rawls. There is also a large literature that asks about justice in realms beside the economic one: war, interventions, secession, use of force generally, etc. Many of the same concerns arise in these debates (e.g., Buchanan, 2000; Caney, 2001). Using Rawls's ideas, Beitz (1979) applied them to international politics, arguing for the 'difference principle' globally.

> Interdependence produce[s] benefits and burdens; the role of a principle of distributive justice, then, would be to specify what a fair distribution of those benefits and burdens would be like . . . An international difference principle applies to persons in the sense that it is the globally least advantaged representative person (or group of persons) whose position is to be maximized. (Beitz, 1979, p. 152)

Rawls in turn rejected this extension of his work, producing a complicated version of global justice in *The Law of Peoples* (1999). This debate over global justice has been conducted mostly by philosophers and not by international relations specialists. More interaction between political philosophy and empirical international relations research could be useful.

The debate over the extent to which distributive justice concerns apply revolves around the question of how far the moral obligations of the rich extend. It involves the importance of national borders and their moral significance. Rawls (1999) has famously argued that distributive justice (and especially his difference principle) does not apply globally; it only extends domestically to 'well-ordered' societies. 'The ideal of a just world for Rawls would have to be the ideal of a world of internally just states' (Nagel, 2005, p. 115). For 'burdened societies', which include most of the developing world, the well-ordered countries have only a 'duty of assistance'. The meaning of this duty

is not clear, but it is not a claim to distributive justice. For Rawls (1999, pp. 108, 117), the main problem of burdened societies is not wealth or resources; it is their political and social culture. The duty of assistance calls for improving the observation of human rights in these countries, and not in rectifying their economic policies or reducing inequalities. Furthermore, once the world's poor have become free and equal citizens within a well-ordered society, this duty is fulfilled; it does not require that countries reach a certain standard of living.

In the cosmopolitan view distributive justice must be global, not just national; it is universal. Theory and factual conditions lead to this position. Rejecting Rawls and other 'nationalist' theories, theorists of global justice argue that no consistent logical argument can be sustained that limits justice to the domestic sphere. Beitz (1979; 1999) has an excellent discussion of these theories. Barry's notion of justice as impartiality (1995) is a main foundation for this view, as is Pogge's moral universalism (2002, p. 108). He claims that 'Rawls runs afoul of moral universalism . . . [since] he fails to meet the burden of showing that his applying different moral principles to national and global institutional schemes does not amount to arbitrary discrimination in favor of affluent societies and against the global poor'.

Using Rawls's own idea of the 'basic structure', Buchanan (2000, p. 705) shows that a global basic structure exists, which is composed of

> regional and international economic agreements (including General Agreement on Tariffs and Trade, North American Free Trade Agreement, and various European Union treaties), international financial regimes (including the International Monetary Fund, the World Bank, and various treaties governing currency exchange mechanisms), an increasingly global system of private property rights, including intellectual property rights that are of growing importance as technology spreads across the globe, and a set of international and regional legal institutions and agencies that play an important role in determining the character of all of the preceding elements of the global basic structure.

If this structure exists, then,

> like a domestic basic structure, the global basic structure in part determines the prospects not only of individuals but of groups, including peoples in Rawls's sense. It is therefore unjustifiable to ignore the global basic structure in a moral theory of international law – to proceed either as if societies are economically self-sufficient and distributionally autonomous . . . or as if whatever distributional effects the global structure has are equitable and hence not in need of being addressed by a theory of international distributive justice. (Buchanan, 2000, p. 706)

Theoretically, moral universalism and justice as impartiality both imply that theories of domestic justice have global reach.

Other theorists from Beitz onward have made this argument by relying on factual claims. Interdependence or globalization itself creates the need for a global theory of justice. The increasing integration of national economies into a global one means that all countries are increasingly affected by what goes on in the others. We are now 'one world', to use Peter Singer's phrase (2002); gone are the days of the Westphalian system of individual states. States are not separate, self-contained units that can

implement autonomously their own principles of justice; their internal situation is affected by international factors.

The argument that the advanced industrial countries are not responsible for the developing countries' problems because these problems were caused by factors internal to the developing nations is untenable in such a world. As Beitz (2000, p. 690) says,

> it is not even clear that the question [about the relative importance of domestic versus international causes of development] is intelligible as it arises for contemporary developing societies which are enmeshed in the global division of labor: a society's integration into the world economy, reflected in its trade relations, dependence on foreign capital markets, and vulnerability to the policies of international financial institutions, can have deep and lasting consequences for the domestic economic and political structure. Under these circumstances, it may not even be possible to distinguish between domestic and international influences on a society's economic condition.

Rawls and his defenders do not accept the cosmopolitan position. Caney (2001) and Blake (2001) nicely summarize objections to the cosmopolitan perspective. Centrally, they maintain that the principles of justice do not extend across peoples. Justice is relevant only within states because individuals within them consent to be governed by certain principles and agree to be coerced, if need be, into doing so. The individualistic perspective of cosmopolitanism is wrong because it greatly 'underrates the moral significance of political communities' (Macedo, 2004, p. 1729). 'An important role for government, however arbitrary a society's boundaries may appear from a historical point of view, is to be the effective agent of a people as they take responsibility for their territory and the size of their population, as well as for maintaining the land's environmental integrity' (Rawls, 1999, p. 8). In well-ordered societies self-government creates and depends on 'common sympathies' and strong reciprocal moral obligations – i.e., political community. Justice is relevant only domestically because the international system is not a political community.

This debate takes us back to questions about political order and anarchy, raising starkly the debate about the extent of political community in world politics. Realists reject discussions of global distributive justice because they do not see moral concerns as relevant; or they see the only relevant moral concern as the maintenance of the state against outside enemies, which requires that states pursue their national interest only and not other moral concerns. In a world where anarchy is not the reigning principle and forms of political order exist, there lies space for considerations of global justice. High levels of interdependence and globalization may make for a very integrated world system. Understanding empirically how rich countries' policies and international institutions affect the poor and examining how different policies could have more beneficial effects on them are important tasks for international relations (Milner, 2005).

Conclusions

This essay has focused on three key areas of research in international relations where political philosophy has played an important role: anarchy and political order,

democracy, and justice. These two separate subfields of political science can learn from one another. The possibilities for fruitful interaction between them seem even greater today since many in international relations have moved beyond a purely realist view of international relations as a Hobbesian state of nature. The search for new analogies to understand international relations and its differences from domestic politics is one that can be greatly informed by political philosophy. What democracy means for relations among states and what it means for international institutions to be democratic or accountable are all questions to which philosophers could contribute. While questioning the Hobbesian analogy in international relations for separating the domains of international and domestic politics too rigidly, one also needs to ask whether analogies about democratic theory within the political community of a state can be seamlessly applied to world politics. Perhaps we need new concepts and criteria for evaluating international relations and international institutions.

Understanding the possibilities for a more just world relies on a combination of empirical research about the distribution of benefits and burdens in world politics, and ways to change that distribution and philosophical inquiry into the justifications for doing so. Finally, the critical question of the extent to which the international system (or parts of it) constitutes a political community relies on both normative research to define a political community and empirical research to show how near we are to this condition. A rich agenda of mutual interaction awaits these two subfields of political science. We must hope that the barriers between the subfields are not so high that they will prevent such collaboration. As in world politics, it often seems to be the borders that we have constructed which prevent us from moving forward.

References

Barry, B. M.: *Justice as Impartiality* (Oxford: Oxford University Press, 1995).

Beitz, C.: *Political Theory and International Relations* (Princeton, NJ: Princeton University Press, 1979).

—: 'International liberalism and distributive justice: a survey of recent thought', *World Politics*, 51, 2 (1999), 269–96.

—: 'Rawls's Law of Peoples', *Ethics*, 110, 4 (2000), 669–96.

—: 'Cosmopolitanism and global justice', *The Journal of Ethics*, 9, 1/2 (2005), 11–27.

Blake, M.: 'Distributive justice, state coercion and autonomy', *Philosophy and Public Affairs*, 30, 3 (2001), 257–95.

Buchanan, A.: 'Rawls's law of peoples: rules for a vanished Westphalian world', *Ethics*, 110, 4 (2000), 697–721.

Bull, H.: *The Anarchical Society: A Study of Order in World Politics* (New York: Columbia University Press, 1977).

Caney, S.: 'International distributive justice', *Political Studies*, 49, 4 (2001), 974–97.

Carr, E. H.: *The Twenty Years Crisis, 1919–1939*, 2nd edn (New York: Harper and Row, 1946).

Cohen, J. L. and Arato, A.: *Civil Society and Political Theory: Studies in Contemporary German Social Thought* (Cambridge, Mass.: MIT Press, 1992).

Dahl, R.: *Polyarchy: Participation and Opposition* (New Haven, Conn.: Yale University Press, 1971).

—: 'Can international organizations be democratic?' in *Democracy's Edges*, ed. I. Shapiro and C. Hacker-Cordon (Cambridge: Cambridge University Press, 1999).

Doyle, M. W.: 'Kant, liberal legacies, and foreign affairs, Part 1', *Philosophy and Public Affairs*, 12, 3 (1983a), 205–35.
—: 'Kant, liberal legacies, and foreign affairs, Part 2', *Philosophy and Public Affairs*, 12, 4 (1983b), 323–53.
—: 'Liberalism and world politics', *American Political Science Review*, 80 (1986), 1151–70.
Fearon, J. D.: 'Domestic political audiences and the escalation of international disputes', *American Political Science Review*, 88, 3 (1994), 577–92.
Grant, R. W. and Keohane, R. O.: 'Accountability and abuses of power in world politics', *American Political Science Review*, 99, 1 (2005), 29.
Habermas, J.: *The Theory of Communicative Action*, 2 vols (Boston, Mass.: Beacon Press, 1984).
Hobbes, T.: *Leviathan* (London: Penguin Books, 1968).
Kant, I.: *Perpetual Peace; A Philosophical Essay* [1871] (New York: Garland Publishing, 1972).
Kratochwil, F. V.: *Rules, Norms, and Decisions: On the Conditions of Practical and Legal Reasoning in International Relations and Domestic Affairs* (New York: Cambridge University Press, 1989).
Layne, C.: 'Kant or cant: the myth of the democratic peace', *International Security*, 19, 4 (1994), 5–49.
Macedo, S.: 'What self-governing peoples owe to one another: universalism, diversity and the Law of Peoples', *Fordham Law Review*, 72, 5 (2004), 1721–38.
Machiavelli, N.: *The Prince and the Discourses* [1532] (New York: The Modern Library, 1950).
Malcolm, N.: *Aspects of Hobbes* (New York: Oxford University Press, 2002).
Mansfield, E. D. and Snyder, J.: 'Democratization and the danger of war', *International Security*, 20, 1 (1995), 5–38.
Maoz, Z. and Russett, B.: 'Normative and structural causes of democratic peace, 1946–1986', *American Political Science Review*, 87, 3 (1993), 624–38.
Mearsheimer, J. J.: 'The false promise of international institutions', *International Security*, 19, 3 (1994/95), 5–49.
Milner, H. V.: 'The assumption of anarchy in international politics: a critique', *Review of International Studies*, 17, 1 (1991), 67–85.
—: 'Globalization, development, and international institutions: normative and positive perspectives', *Perspectives on Politics*, 3, 4 (2005), 833–54.
Nagel, T.: 'The problem of global justice', *Philosophy and Public Affairs*, 33, 2 (2005), 113–47.
Pettit, P.: 'Democracy, electoral and contestatory', *Nomos*, 42 (2000), 105–44.
Pogge, T.: *World Poverty and Human Rights* (Cambridge: Polity, 2002).
Przeworski, A., Alvarez, M., Cheibub, J. A. and Limongi, F.: *Democracy and Development: Political Institutions and Well-Being in the World, 1950–1990* (New York: Cambridge University Press, 2000).
Rawls, J.: *The Law of Peoples; with, The Idea of Public Reason Revisited* (Cambridge, Mass.: Harvard University Press, 1999).
Reiter, D. and Stam, A.: *Democracies at War* (Princeton, NJ: Princeton University Press, 2002).
Russett, B. and Oneal, J.: *Triangulating Peace: Democracy, Interdependence, and International Organizations* (New York: W. W. Norton, 2001).
Schultz, K. A.: *Democracy and Coercive Diplomacy* (New York: Cambridge University Press, 2001).
Schumpeter, J.: *Capitalism, Socialism, and Democracy* [1942] (New York: Harper Colophon, 1976).
Singer, P.: *One World: The Ethics of Globalization* (New Haven, Conn.: Yale University Press, 2002).
Tucker, R. W.: *The Inequality of Nations* (New York: Basic Books, 1977).

Waltz, K. N.: *Man, the State, and War: A Theoretical Analysis* (New York: Columbia University Press, 1959).
—: *Theory of International Politics* (New York: McGraw-Hill, 1979).
Wendt, A. E.: 'Anarchy is what states make of it: the social construction of power politics', *International Organization*, 46, 2 (1992), 391–425.
—: *Social Theory of International Politics* (New York: Cambridge University Press, 1999).

Chapter 9

Legal Studies

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The studies of politics and law are closely related in that both deal with the use of coercive power in society, yet the two disciplines are often curiously isolated from each other. Political theorists are rarely concerned with the specific content and application of the legislation which they regard as one of the main outputs of a political system, while legal academics are, traditionally at least, noted for their general indifference to the political and economic context of the rules and they seek to explain and systemize.

Increasingly, however, the academic discipline of law, as it has become less doctrinal and more policy oriented, is influenced and revitalized by the application of information and ideas derived from political science and political philosophy. The flow of intellectual stimuli in the reverse direction is not as pronounced but, as we shall see, it is not insignificant. Moreover, it seems clear that the study of politics and, in particular, political philosophy, could be further enriched by a deeper awareness of what is going on within the discipline of law – for instance, with respect to constitutional law and regulatory theory as well as law-school-based 'law and society' and mainstream legal philosophy. It is this perspective that has governed the choice and presentation of the highly selective account of contemporary legal studies which follows.

One explanation for the gap between the disciplines of law and politics is that the study of law is more closely integrated into the sphere with which it deals than is the case with political science and philosophy. Legal academics tend to be lawyers, whereas political scientists and philosophers are only rarely politicians. Much academic legal work involves the investigation and presentation of the substantive and procedural rules and principles which are regarded as authoritative within the jurisdiction in question. This work may be described as 'doctrinal' or 'black letter' in that it seeks to exhibit and give legal authority for the basic principles and rules of each area of law. The norms in question are selected on the basis of their legal validity and the consequent analysis and explanation is carried out from a point of view which is internal to the process of law and intended largely for the consumption of legal officials and other practitioners, present and future.

The discipline of politics, on the other hand, is more empirically and theoretically based and seeks principally to describe and explain political behaviour, and – in its more philosophical and prescriptive aspects – to criticize or justify political systems and

political outcomes. Political science and philosophy are external accounts, explanations and justifications of social and political phenomena such as social class, pressure groups, individual preferences and democratic procedures; the discipline of law is more of an insider's view of distinctively legal phenomena, such as statutes, cases, precedents, interpretation and court procedures.

There are, however, many areas in the discipline of law to which such juxtapositions do not apply. One is the study of law and society including regulatory theory; another is the study of 'jurisprudence' or legal philosophy, much of which is a specialism within political philosophy; there is also the increasingly theoretical literature on constitutional law, particularly the study of the role of constitutional courts, where the interface of law and politics is most evident.

While law and society is not a mainstream subject within law schools, even within legal academia there is a growing body of work done in the style of social science which seeks to give an account of 'law in context', focusing on the forces which shape the content and processes of law and examining the observable effects of legal process on other social phenomena. These studies involve the self-conscious application of the methods of the social sciences to law as a social phenomenon. I draw attention later in the chapter to some of this work, which is of particular significance for political philosophy.

The old-style 'jurisprudence' which, following the path set by the first professor of that title, John Austin (1790–1859), deals with the analysis of basic concepts – such as obligation, rights and sanctions – which were assumed to be common to all 'developed' legal systems (Austin, 1885, Lecture V), has all but given way to an altogether more philosophical approach to the understanding and development of fundamental legal concepts. Contemporary legal philosophy takes in the examination and evaluation of the role of law within different types of society. Insofar as this work deals with the principles of legislation – that is, the elaboration and critique of principles which set standards for substantively good or acceptable law – legal philosophy is in much the same business as a great deal of political philosophy. There is a similar overlap when legal philosophers consider the nature and legitimacy of states as sources of valid law.

The most distinctive concern of legal philosophers is the nature of legal process itself, and in particular the analysis and criticism of legal argumentation as it is manifest in the selection, interpretation and application of laws, principally in the setting of the courtroom. This central aspect of legal philosophy has important implications for political philosophy in that it raises issues about the institutional and philosophical presuppositions of the idea of the rule of law, one of the principal ideological foundations of liberal politics and the theory of democracy. For this reason, competing philosophies of legal argumentation feature centrally in this exposition of those aspects of the discipline of law that are of evident relevance to political philosophy.

Particularly in the United States but increasingly in Europe and elsewhere, a great deal of politically relevant legal studies arises from the constitutional role of courts, specifically the exercise of the ever expanding power of the judicial review of legislation, often on human rights grounds. The legal arguments used to justify decisions on alleged violations of constitutional rights provide a focus for much debate on issues of political moment. More specifically, the extensive body of commentary on the rationales and critiques of the US Supreme Court decisions includes much straight political

philosophy, while the political twists and turns reflected in the past and present decisions of the Supreme Court are a standard part of the subject matter of political science. This material represents a further area of legal studies, which is atypically close to the work of political scientists and philosophers.

The disciplinary separation of law and politics is an institutional fact with considerable ideological overtones. For many lawyers, law is respectable and politics is not. To some of these the very idea that law is a manifestation or type of politics seems almost offensive. Within legal academia, however, the most eye-catching of contemporary work rests on precisely such a claim: there is no science of law independent of or isolated from politics. This is, for instance, one of the main contentions of 'Critical Legal Theory' and most versions of 'Feminist Jurisprudence' and 'Critical Race Theory'. Similarly, although the locally influential 'Economic Analysis of Law' approach to legal studies has very different political content and is overtly about economics rather than politics, its practitioners share the assumption that law is not an autonomous social phenomenon, thus also blurring the border of law and politics.

Because of their evident political relevance and relative novelty it is tempting to begin with, and to concentrate on, these more overtly political trends in current legal studies. However, a great deal of these contemporary legal critiques is best understood against the background of the more formalistic legal positivism, an approach which represents the traditional liberal position from which much contemporary legal theory takes its disrespectful departure. For this reason, I commence the substantive discussion in this chapter with the work of the late Herbert Hart, still the most widely read of all contemporary legal philosophers and a sophisticated exponent of modern legal positivism, that is, the doctrine that all law is made or 'posited' in a way which can be identified by social observation, without recourse to moral judgement.

Herbert Hart's *Concept of Law*

In the late 1950s and through the 1960s when contemporary political philosophy was re-emerging from a period of inactivity, not to say academic disrepute, and political science was just beginning to gain acceptance as an independent subject, the discipline of law was not considered as an important model to be adopted, despite the fact that many university courses on 'government' emerged from a background of public law teaching. Interestingly, it was the school of linguistic, or 'ordinary language' philosophy, which had done so much to discredit the intellectual status of theorists who sought to commend substantive moral and political views, that gave birth to perhaps the most important legal philosopher of the modern period, Herbert Hart. Hart, a one-time practising barrister and war-time civil servant, and subsequently Professor of Jurisprudence at Oxford University, published, in 1961, *The Concept of Law*, a book which set out in a lucid and straightforward manner a theory of law which restated in modern guise the legal positivist's doctrine on the separation of law and morals in a way which enabled the political philosophy of the time to pursue its own concerns with scant regard for the details of law and legal systems.

The source of the wide appeal of Hart's ideas and, indeed, the very nature of Hart's theory remain controversial (Lacey, 2004). Hart's sociological model of how developed

legal systems emerged from more simple and less 'legal' normative systems has immediate intelligibility and plausibility, although he himself relied on conceptual analysis of ordinary language rather than empirically based work. *The Concept of Law* is also capable, however, of a more normative interpretation, which draws on Hart's interest in the moral and practical advantages of a system of law that cultivates a clear distinction between the question of what the law is and what it ought to be (Campbell, 1996; Coleman, 2001, chs 9, 11, 12). On either interpretation, what is clear is that Hart's legal philosophy represents a traditionally British view of law and politics in that he allocates to the realm of politics the articulation and defence of moral rights and community conceptions of justice, leaving law with the humbler role of identifying and applying, in a politically neutral manner, existing legal rules. Legal positivism, as the theory that all law has its origins in human acts and contrivances (rather than, for instance, the natural law contention that law is essentially and necessarily related to pre-existing moral norms), conveys precisely such assumptions.

The thesis that there is no necessary connection between the existence of a law and its moral justification (Hart, 1961, ch. 9.) fits well with the assumption that law can be identified by its distinguishing social features and interpreted by reference to its intelligible content alone, thus making it an appropriate subject matter for political science. In this respect, at least, Hart carries on the tradition stemming from John Austin's insistence that 'the existence of a law is one thing, its merit or demerit another' (Austin, 1885, p. 174). Where Hart departs from Austin is in his revision of the latter's contentions that all laws are the generalized commands of a sovereign and that all positive law (or 'law properly so-called') is the command of a human sovereign, that is, of a person or body who is habitually obeyed by all members of a given society and who does not habitually obey any other person or body.

Despite the parochial nature of some of Hart's assumptions, *The Concept of Law* represented the working assumptions about law of most political philosophy at the time, namely that a legal system is a system of rules, which emanate in large measure from the political process via legislatures, but which are routinely applied by a separate body of officials, the judiciary and supporting legal practitioners, in a manner which is, in itself, largely politically neutral and therefore politically uninteresting. In this regard the US Supreme Court was seen as atypical in that it has been able to adopt an overtly political role through its interpretation of vaguely worded constitutional rights and their application to social circumstances far removed from that in which the rights originated. However, in the world of ordinary law, at least, the model of judicial duty has, as its paradigm of legal process, the application only of those rules which can be shown to be legally valid, within the system in question, to facts as they are established through procedures designed to arrive at the truth about the circumstances at issue. This gives an appropriately neutral role to non-elected officials, thus safeguarding the liberty of the individual against the arbitrary intrusions of government.

While endorsing Austin's general positivistic line, Hart seeks to distance himself from the imperatival aspects of Austin's analysis, particularly insofar as the concept of a command is cashed out in terms of liability to (in the sense of the statistical likelihood of) the infliction of a sanction, if the alleged commander's wish is not complied with. This model, Hart considers, fits well enough with the criminal law, but it does not begin to explain the legal nature of the civil law, with its emphasis on contracts and tort,

where the law enforces agreements or requires compensation for injuries without imposing anything comparable to a punishment. Hart redefines the role of the sovereign as providing unity for a legal system (as the single source of all laws). He does this through the concept of a 'rule of recognition' that states the requirements for acceptance as valid law within a particular legal system. The rule of recognition is used by officials to identify and apply laws within a jurisdiction (Hart, 1961, ch. 6). The task of specifying which rules are legal rules involves not a passage from rules to rulers but an elaboration of the concept of a rule which distinguishes between what Hart calls primary rules of conduct – rules which require or enable individuals to act or refrain from acting in certain ways – and secondary rules, or rules about rules, which are followed in the adoption, alternation and application of primary rules. Hart's sociological model is that a legal system is a combination of primary and secondary rules whose organic unity depends on the existence of a particular secondary rule, 'the rule of recognition', which states those observable properties which a primary rule must possess to be 'recognized' by those charged with the application of such rules as a 'valid' rule of the system.

The precise criteria for acceptance as valid law vary with the legal system in question, but all criteria are empirical ones (a position modified in the second edition of *The Concept of Law*, published after his death in 1994). Under different rules of recognition, it may be that valid rules are those that have been enacted by a particular institutional body, such as a legislature; or have been applied in the past in the courts; or found in a particular book. In practice it is likely that there is a hierarchically ordered combination of such criteria. All that is excluded is that the utilization of the criteria requires the exercise of value judgements about the content of the putative rules. In this sense, all valid laws must have a social origin which judges can identify as a matter of fact, rather than from the understanding or evaluation of their contents. In contemporary legal philosophy, this is called the 'social thesis' (Raz, 1985, p. 295).

Paradoxically, perhaps, for a legal positivist intent on marking the logical distinction between law and morals, Hart is keen to assert the similarity of many of the features of both legal and moral obligations: both render certain conducts mandatory, both involve the idea of potential criticism and blame for non-compliance, both relate to matters of some social importance (Hart, 1961, pp. 79–88). As an 'ordinary language' philosopher, Hart was happy to point to the overlapping vocabulary of law and morals (rights, duties, fault, etc.) and relies on the existence of a rule of recognition to distinguish the positive law from the positive morality of the community and the personal or critical morality of the individual. Almost all that remains of Austin at this point is that the rules identified and applied by these officials are 'efficacious' in that they are generally obeyed within a given territory.

Several features of Hart's model of law facilitate political analysis. The specific content of different rules of recognition can be used to characterize different types of political systems: democratic and non-democratic, constitutional and traditional. The same analysis gives us a framework for discussing political revolutions in terms of the changing content of a system's rule of recognition. However, more significantly for our purposes, it is a model that enables a working division of labour between legal and political studies, which mirrors the analytical distinction within Hart's theory. Legal studies can concentrate on the processes of law identification and application, leaving

political science to study the processes leading up to legislation, and political philosophy to deal with the normative principles that determine what is 'good' law. Hart himself engages in both modes of political study, enunciating and defending a version of Mill's 'harm' principle relating to the extent of legitimate government intervention (modified by an allowance for a measure of paternalism), which has had some influence in political philosophy (see Feinberg, 1985–8).

The most serious difficulties for Hart's theory relate to the rule of recognition. Empirically, he has a problem in identifying the accepted rule of recognition within a given political community. Hart himself simply notes that the rule of recognition is a sociological fact to be ascertained by observing the activities of legal officials, which is problematic if the officials do not all follow the same rule. Normatively, this approach does little to account for the normative force of rules of recognition. From the point of view of political analysis, it is not clear that we will readily be able to identify which rule of recognition is in force, given that it is of the nature of rules which govern conduct that they are not always followed by those to whom they apply. Simple generalization from the judicial activities of individual persons will hardly suffice. Further, since judges do not explicitly formulate a rule of recognition as they go along, it may be difficult to divine what rule they are following, or failing to follow, or if, indeed, their behaviour is rule governed at all. Indeed, it seems no more than an article of faith that all judges in the same system are following the same rule of recognition.

This problem is simply a particular form of a general difficulty that we encounter when it comes to a further element of positivistic theories, such as Hart's: namely, the idea that once a rule is recognized as a valid law, then our problems in separating law and politics are over, a claim that seems to ignore the fact that any form of words, or any series of legal decisions, can be taken in a variety of ways, and that the decision which way to read them is in itself, at least potentially, a political act. This is particularly so when, as is often the case, the rules in question are stated in a highly general form (such as that goods must be 'of merchantable quality' or conduct must be 'reasonable') which invites moral interpretation.

Although in most jurisdictions it was traditionally relatively easy to go along with the contention that laws are rules whose application, at least in normal (or 'easy') cases, has difficulty only with respect to determinations of fact, even at the time Hart's views did not square with the developing consensus in the United States that American Legal Realism (ALR) must be right about the fact that it is judges not rules that decide cases and that rules can be no more than general guides to the making of what are essentially political (and maybe personal) decisions about who is to get what, where, when and how. Hart's own response to ALR is to assert that it is feasible, if not always attained, to have rules which are capable of relatively straightforward application in terms of their obvious generally accepted meanings. Problems do emerge in marginal cases where general terms are applied at the limits of their normal applications or where gaps in the law require that existing rules be stretched beyond their normal contexts, but these are not typical law in its normal everyday operations. He argues that, as a matter of sociological fact, most words have a core of certainty in their meanings about which there is no reasonable dispute and, at the same time, a 'penumbra of doubt' where we cannot be sure how they are to be taken. In other words, there are lot of paradigm cases and not very many borderline judgements in the application of most

sensibly formulated rules. Further, such 'open texture' as there is in the meaning of legal rules permits the judiciary to exercise a useful degree of discretion, thus enabling law to adapt to changing circumstances (Hart, 1961, pp. 138–44).

This may seem a sensible mediating position between the extreme 'rule sceptics' who take any particular decision to be compatible with any rule, and those formalists who hold that – potentially at least – all law can be reduced to rules with uncontroversial meanings. Yet, if the number of legal rules which fit the model of applicable clarity, and/or the number of fact situations which fall within clear rules turns out to be relatively small; and if, worst still, there are ways in which even an ostensibly clear rule can be rendered obscure so that 'easy' cases become 'hard' ones, Hart's theory may turn out to be a highly misleading model on which to posit a working relationship between legal and political studies. More seriously, from the point of view of political philosophy, we may have to accept that there is a major empirical difficulty with the traditional idea of the separation of judicial and legislative powers under the model of the rule of law.

Given the plurality of jurisdictions within the United States and the overtly political role of its Supreme Court, both of which contribute to making ALR such a plausible view, it is not surprising that Hart's strongest early critics came from the ranks of US legal theorists. Ironically, however, the critics in question may readily be interpreted as developing variants on Hartian positivism. The first, Lon Fuller, echoes, although in a formulation with which he could not agree, Hart's recognition of the moral value of the rule of law, while the second, Ronald Dworkin, presents a method through which Hart's alleged gaps and obscurities in positive law may be overcome without recourse to the exercise of strong judicial discretion.

Lon Fuller's 'Inner Morality of Law'

In some ways Lon Fuller's case against Hart's positivism is a domestic jurisprudential dispute without immediate political relevance. Both agree with the idea that laws should be clear, prospective (in that they do not apply to conduct which occurred before the laws existed), general (in that they are not *ad hoc* commands to named individuals or groups), practicable (in that those affected are able to fulfil their legal obligations), stable (in that they are not liable to constant change), consistent (in that they do not require a person both to do and not to do the same actions) and public (in that they can be known by those to whom they apply) (Fuller, 1969, pp. 35–7). Further, both agree that these properties of 'good' law have instrumental value in that, by enabling citizens to know in advance precisely how they stand in relation to the legal effects of their conduct, it enlarges human freedom and individual responsibility (see Hart, 1968). Their disagreement arises over Fuller's further claim that the virtues of formally proper law produce a necessary connection between law and morality, in that it is no accident that those systems which are committed to the rule of law are those which also have substantively the best laws. This is the basis of his theory of 'procedural natural law', according to which aspiration towards perfect legality provides some sort of protection for fundamental substantive rights. For instance, retrospective legislation is 'absurd' because it could not have been followed by those who are retrospectively

affected by it, but it is also 'brutal and oppressive' precisely because those burdened in this way do not have the opportunity to avoid their fate.

Hart seems to have the best of the dispute when he points out that the clearest, most prospective and most stable rules may serve the most awful purposes (Hart, 1983, pp. 347–53). Fuller's rejoinder, to the effect that the use of general, prospective rules cannot but to some extent respect human freedom more than particular retrospective commands, seems too flimsy a base on which to build his more expansive claims about the internal morality of law. The politically interesting aspect of the dispute centres on whether Fuller's position tends to support an unduly complacent view of the benefits of lawfulness as such. His theory might be thought to give encouragement to the belief that by striving for all procedural perfections we are thereby contributing to the furtherance of rules that are acceptable in their content. Hart offers no such comfort to the conscience of the legal officials engaged in their administrative and judicial functions.

However, Fuller, in carrying on the ALR position that courts may properly look to the purpose of legislation and mould judicial precedent in their interpretations and decisions, points to a method that may avoid the abstract formalism which Hart's 'clear meaning' can engender. In particular, appeal to the purpose of legislation is a device which is often called into play when the meaning of a rule is disputed. This is, however, a two-edged sword for Fuller and other 'rule of law' theorists who see law as a defence against arbitrary political power, since resort to the purposes of legislators is one of the sources of abuse which the rule of law ideal is intended to curb by limiting the discretion of officials to tailor their decisions to the immediate requirements set by policy objectives. There is no defence for the citizen against arbitrary political authority if rules are treated as flexible instruments to secure purposes that override their immediately evident implications.

Nevertheless, when purposive interpretation is adopted, it creates an interesting legal role for the political scientist who may be asked to provide an answer to the impossible question, *what is the purpose* that lies behind a particular piece of legislation, or a particular clause in a legislative act. Political philosophers, however, may reasonably ask whether it makes sense to ask for the purpose or intention of a legislative body, or worse still, of an electorate, given that legislation is the outcome of a complex process of pressure group activity, bargaining, economic power and plain chance.

Ronald Dworkin's Principles

Hart's second American critic, Ronald Dworkin, provides a much more detailed and apparently far-reaching assault on the legal positivist's model of law as a corpus of rules. Dworkin, one of the most charismatic and innovative contemporary legal philosophers, has a theoretical approach which licenses him to merge legal and political theory without denying the distinctiveness of legal argumentation. In the end, his position may be seen as naively American as Hart's is British, and to have the added disadvantage that it matches Hart's low-keyed common-sense approach with an extravaganza of impracticalities. Nevertheless, along the way, Dworkin provides us with suggestive insights and important distinctions of evident interest to political philosophers.

Dworkin's initial objection to Hart is that he overemphasizes the role of rules in law (Dworkin, 1977, pp. 14–80). He does not deny that there are rules, that is, specific legal permissions or requirements that have an either/or effect in establishing or denying the existence of legal obligations and rights. His point is that law contains other norms, such as principles, which are not, as is usually believed, simply more general than rules. Indeed, principles may be more specific than rules. What is important, for Dworkin, is that principles have a very different function from rules in that they state more fundamental considerations which may be used to override the immediate implications of rules in favour of background values. Thus the principle that 'no one shall be permitted to profit from his own fraud, or to take advantage of his own wrong' may be used to set aside an otherwise valid will (Dworkin, 1977, p. 23); or the background value that 'the courts will not permit themselves to be used as instruments of inequity and injustice' may be used to extend the liability of motor manufacturers for defective products (ibid., p. 24). Principles are different in kind from rules, in that they have 'weight' which has to be put in the balance with other possibly competing principles, and may override established legal rules. This is because principles represent underlying justificatory values embodied in the legal system in question.

Dworkin develops an ideal model of legal reasoning according to which a legally all-knowing and intellectually faultless judge (Hercules) works out the right answer to every legal dispute. The Herculean judge determines the actual pre-existent rights of the parties involved by reaching an answer that is consistent with or 'fits' all existing principles and rules insofar as they are not set aside by the principles in question. In his judgements, even in hard cases, Hercules pursues 'integrity', by which Dworkin means a decision which coheres with the legal tradition in question, and does so on the interpretation which adopts the most justifiable reading of that tradition (Dworkin, 1986, pp. 176–275). For, while there may be many answers which cohere with the tradition, only one of these represents a coherence of the best interpretation of the tradition, a conception which he derives from efforts in literary criticism to justify the priority of a specific interpretation as giving the best literary or aesthetic result. In the case of Hercules the standards applied are those of the contemporary political community. Dworkin speaks of a 'constructivist interpretation' of law that involves asserting the most acceptable political justification of the tradition in question as it is embodied in the inherited legal material (ibid., pp. 52–3).

Ready sense can be made of Dworkin's approach by considering the role of the US Supreme Court in its activist phases. The background principles and rights to which Dworkin has such easy recourse can be identified with the relevant provisions of the US Constitution which are routinely used by the Supreme Court to override the decisions of lower courts. Indeed, Dworkin's theory can be seen as a legitimation of the role of the Supreme Court, for he is able to argue that while the court should have no role in overruling on utilitarian grounds the policies which have been arrived at by duly constituted legislatures, it is its task to veto such proposals which conflict with the rights embodied in the constitutional principles that the courts are there to defend. This presupposes the very bold and important claim that all political issues can be distinguished into those which are within the majoritarian democratic process, because they have to do with the maximization of preferences, and those which are also within the judicial process because they deal with the fundamental rights of the

individual. Moreover, rights, in Dworkin's well-known phrase, are 'trumps', so that, within this sphere at least, courts dominate over the current electoral political process. All this is of a piece with liberal views on the role of the Supreme Court (see Michelman, 1986).

Writing within a tradition that has come to accept that the mass of judicial decisions is a jumble of incoherent findings dependent on numerous extrajudicial factors, Dworkin's radical claims about 'right answers' have been greeted with some scepticism both as a description of judicial practice and as a feasible ideal. Quite apart from the fact that there are no judges of Herculean capacities to be found, the whole enterprise seems inherently unreal insofar as it requires the judge to exercise a judgement as to which interpretations are best in relation to principles that are so general as to admit of an endless variety of determinations. It thus turns out that Dworkin's critique of Hart, which was designed to show that judicial discretion is neither required nor desirable, makes its extensive use inevitable in practice since every legal argument is open to challenge through the introduction of highly elastic general norms. Nevertheless, Dworkin's approach has a strong appeal to legal insiders, who see it as giving legal practitioners a more exciting and significant role than merely applying the rules provided by others within their political system, and can be seen as representing an ideology that underlies the shift of political authority from participatory democratic process to legal fora.

Dworkin himself goes some way towards suggesting an appropriately objective methodology beyond the elusive social consensus for moral-cum-legal argument through his elucidation of the most basic principle of all, that of 'equal concern and respect' (Dworkin, 1977, p. 275). He interprets this principle as requiring us to give equal weight to the preferences of all individuals but only insofar as they relate to their own welfare and interests, thus excluding those 'external preferences' which relate to the lives of other people, preferences which can provide an easy entrance for racialism and other inegalitarian prejudices.

There is no doubt that, given a morally passable senior judiciary, a legal system which managed to follow out some such principle as Dworkin's 'equal concern and respect' could avoid some of the evils that come from democratic oppression of minorities, but the principle is so vague as to be compatible with as many enormities as could coexist with a commitment to Fuller's procedural principles. Dworkin, in the end, has to believe that 'equal concern and respect' can be unpacked to provide the political content of the presently fading left liberalism of contemporary US politics. His many endeavours to demonstrate that this is the case with respect to current constitutional issues, such as free speech, racialism and pornography, are formidable and clever but invariably in the end somewhat *ad hoc* and unconvincing.

Thus, despite its trappings of modern literary theory, if Dworkin's theory is to be of more than an abstract legitimation of the claim that constitutional courts can make 'objective' moral judgements (Dworkin, 1996), it seems to require a more substantive theory of natural law. For some, this requirement may be met by John Finnis's refurbished presentation of traditional Thomism (Finnis, 1980; George, 1996). Certainly, without some such underpinning Dworkin's theory lacks the epistemological basis for controlling the power of unelected judicial officers, who are in effect licensed to deploy unspecific principles to complicated political conflicts.

Economic Analysis of Law

The debate between Fuller and Hart, and the positivistic revisionism of Dworkin, have been overtaken by a more bitter and overtly political struggle between two products of ALR – those who practise the Economic Analysis of Law (EAL) and those who take EAL to embody an evidently ideological stance on the nature and purpose of law, a view that is held particularly strongly by those within the Critical Legal Theory, particularly Critical Legal Studies (CLS).

The intellectual roots of EAL are to be found largely outside legal studies, at least in the modern period, although it has to be remembered that Adam Smith taught law as well as economics as part of his course in 'moral philosophy' at Glasgow University. It is the Chicago-based free market economic theory of Milton Friedman and others that provides the inspiration of Richard Posner and other practitioners of EAL. However, the application of classical libertarian economics to law has developed a degree of sophistication and originality that makes it more than a mere reflection of general economic theory. In particular, argument that the common law as developed by judges over long periods of time is inherently efficient while state legislation tends to inefficiency is argued with a conceptual subtlety and empirical grounding that make EAL, potentially at least, an important contributor to the analysis of the role of law in contemporary political systems.

Political philosophers who read Posner will find that his position has many similarities to those of Robert Nozick in its endorsement of the private ownership of productive resources and the free exchange of goods without governmental intervention (Nozick, 1974). However, Posner goes beyond the unargued assertion of certain basic rights and deploys consequentialist reasons for positive rights to life, liberty and property as the best institutional means to promote economic 'efficiency', by which he means 'exploiting economic resources in such a way that human satisfaction as measured by aggregate willingness to pay for goods and services is maximized' (Posner, 1977, p. 4). Law is then shown to have its part to play in an essentially economic system, not simply because judges, like everyone else, behave in accordance with classic economic assumptions of self-interested rationality, but because they determine cases which come before them in the most economically efficient way. This is achieved (whether consciously or not) by adopting the allocation for rights and liabilities, which would be the result of free individual bargaining in a world in which there are no 'transaction costs', that is, the costs of gaining relevant information and setting up rational agreements. In this way the law ensures that rights are possessed by those who, given an ideal market, would pay most for them, thus maximizing their value in economic terms.

The proponents of EAL do not suggest that the actual market could take the place of the common law, for the significance of law, beyond setting a framework for free exchange, is largely that it enables actual markets to become more like the markets without the imperfections of transaction costs. Rather, the common law seeks to 'mimic' a transaction costless market, that is, a market where there is no cost in the gathering of information, making the necessary communications between parties and in arriving at a voluntary and informed agreement (Posner, 1977, p. 138)

Posner's position on the efficiency of the common law is derived from the work of Ronald H. Coase, whose article 'The Problem of Social Cost' (1960) is one of the most influential contributions of legal studies to political philosophy. There Coase argues that, where transaction costs are low, it is immaterial for efficiency which party in a dispute has the legal right in dispute since the party who values that right most highly will purchase it from whomsoever is the current right-holder. Eventually all rights will be, then, possessions of those who are able and willing to pay most for them (see Ellikson, 1989–90).

Posner himself goes further than this by arguing that the efficient outcomes mimicked by common law rules and principles are also just. He achieves this remarkable result by interpreting the maximization of wealth as the maximization of preferences and adopting an essentially utilitarian standard of justice, adding, in Nozickian terms, that the market also maximizes liberty since all transactions are freely entered into. While it is clear that, at least in relation to those liberties such as freedom of contract, which are integral to the free market, liberty is an entrenched value, it turns out that wealth maximization is ultimately fundamental since it is used to justify limitations on liberty, as in prohibitions of those monopoly economic powers which do not maximize wealth.

The limitations of EAL, particularly when it is extended beyond the sphere of property and commerce, are the limitations of libertarian economic philosophy in general: the failure to consider the initial distribution of rights as a matter of justice beyond the calculation of maximization; the need to provide a basis of what is essentially a crude utilitarianism of wealth; and the factual implausibility of many of its assumptions about instrumental rationality (see Baker, 1975; Coleman, 1988). Moreover there is now plenty of evidence to cast doubt on the specific claim of EAL relating to the relative efficiency of the common law as against government regulation (see Sunstein, 1990). It cannot be denied, however, that the persistent pursuit of economic analysis throughout the common law has increased the credibility of EAL to the point where it is considered to be about the only theory which can purport to provide substantive guidelines for understanding and making the legal decisions which are so widely assumed to be underdetermined by formal rules. Political philosophers should note that in some jurisdictions there is a conscious effort to utilize the principle of EAL in the courtroom and that, whatever the theoretical deficiencies of EAL, the use of its methods in actual judicial process is a fact of some political significance.

Critical Legal Theory

EAL epitomizes the sort of liberal certainties that the Critical Legal Theory is committed to destabilizing. Critical Legal Theory can trace its contemporary origins to the emergence of Critical Legal Studies (CLS) in the early 1970s, coinciding with the political emergence of the New Right. CLS is a surprisingly leftist movement to emerge from the elite law schools of North America. Sociologically, the movement may be viewed as a reaction against the populist libertarianism of middle America and the less than attractive part that US lawyers typically play in the enrichment of those who benefited most from the entrepreneurial opportunities of the period. Philosophically, its proponents

have been characterized as a 'a diverse group . . . generally marked by a commitment to a more egalitarian society and a dissatisfaction with current legal scholarship' (Boyle, 1992, p. 3).

CLS was no mere external commentary on unjustified pretensions and tainted performance of courts and lawyers. True, it was a community tenet of the CLS movement that its members should be active in community politics. But the prime force of much CLS work was to condemn existing forms of legal education and research for the way in which they perpetuated and even promoted the formalist myths that legitimated the high status of law and lawyers, and the rights-based constitution so revered in the political culture of the United States (see Kennedy, 1982).

Nor did CLS work turn its attention away from law to the alleged 'real' determinants of political change. Rather, the prime focus of CLS work was directed to the detailed scrutiny of law in its traditional manifestations: statutes, law reports and court decisions. CLS writing centred on understanding the legal house and setting it in order, or, rather, disorder, through intense and sustained scholarly attention to legal history and the ways in which rules are handled and decisions justified in the legal realm.

The CLS movement was not particularly novel either in legal or in philosophical terms. Its central presupposition and refrain – that rules and hence laws are irretrievably 'indeterminate' in that they can be construed in an elastic and open-ended variety of ways – is largely a reassertion of the influential thesis of the ALR (particularly Frank, 1949; Llewellyn, 1960), to the effect that judges not rules decide cases and that judges are influenced by a variety of competing factors and adopt a variety of interpretative styles with radically different results.

Further, the 'critical' element in CLS could be regarded as little more than a deployment of postmodernist anti-essentialism to open up a left-wing analysis of law and the state (see Unger, 1975). The postmodernism lies in the thesis, derived from Wittgenstein, Foucault, Derrida and Lacan, that all meanings are constructed in that no text has a correct or essential meaning. In consequence, there can be little weight attached to the idea of the 'core meanings' of words, which is so central to the model of legal reasoning presented by modern legal positivists such as Herbert Hart (see Boyle, 1985).

The left-wing, or neo-Marxist, content of CLS was twofold. First, that actual legal process involves inherent 'contradictions' between incompatible elements, which reflects the conflicts inherent in social relationships. Without being committed to historical materialism, the CLS development of American realist contentions concerning the political tensions within and without the legal realm were at the very least reminiscent of Marx's critique of the 'contradictions' of capitalism, such as the incompatibility of social production and individual appropriation.

Another quasi-Marxist CLS theme was the exposure of objectified or reified social forms as legitimation of existing power relationships (see Gabel, 1979). For CLS the paradigm of reification is apparent in the 'formalist' view that law is a process whereby clear rules are applied by impartial adjudicators. The implied division of powers between those who make law and those who apply it, and the associated tenet that the judicial function is limited to the accurate application of pre-existing rules and principles, makes up the 'rule of law' ideology that serves to cloak and rationalize legally mediated

oppression. The echoes of Marxian theories of ideology and false consciousness are audible, albeit without the full trappings of economic class analysis (see Gabel and Harris, 1982–3).

CLS may thus be viewed as an appropriation of pre-existing political philosophy rather than a source of novel insights. This is, however, an oversimplification of the CLS themes and substantially underestimates the significance of the detailed work done by CLS scholars in the analysis of law and legal systems (see, for instance, Horwitz, 1977; Tushnet, 1981). Influential among this work has been the writings of Duncan Kennedy, whose approach to the analysis of legal thought is manifest in the claim that the underlying structure of the common law legal tradition is a constant and unrecognized tension between the self and others, or between individualism and collectivism. This tension represents a reality inherent in human relationships which involves a clash between the desire to assert the priority of our individual choices and the recognition of our dependence on and need for the assistance of others. This genuine social phenomenon is, however, masked in the legal realm which serves to deny the dichotomy in a way which legitimates the status quo, making present (oppressive) social structures appear inevitable and natural. Thus the 'fundamental contradictions' which underlie all legal doctrines represent a 'single dilemma of the degree of collective as opposed to individual self-determination that is appropriate'. At the same time, law itself is simply a 'mechanism for denying contradictions' in a manner which enables the stabilization of existing social hierarchies (Kennedy, 1979, p. 213).

Crucially, if CLS claims are even roughly accurate, then the traditional focus of political philosophy on the activities leading up to the legislative moment must be seen as hopelessly limited, and the standardly unargued use of the imagery of the 'rule of law' in the justification of democratic process totally discredited. Further, the emphasis of legal philosophy on inputs to the legislative process as distinct from the supposedly 'adjudicative' branch of government must be misplaced and misleading.

In assessing the contribution of CLS, it is best to keep a firm distinction between the postmodernist thesis in the philosophy of language, according to which there can be no firm interpersonal or consensus meaning, and the neo-Marxist use of this notion of linguistic indeterminacy to expose the underlying inconsistencies of apparently coherent language systems which serve to bolster existing power relationships. Uncovering of contradictions does not require that these be obfuscated by linguistic flexibilities, and the actual indeterminacy of meaning may mask nothing more than underlying confusion and chaos. Indeed, it seems evident that if law were entirely open and indeterminate, then it would not be possible to show that it is consistently contradictory It may therefore be necessary to moderate Klare's claim that 'legal reasoning is a texture of openness, indeterminacy, and contradiction' (Klare, 1982, p. 34).

As far as the rule of law is concerned it is the indeterminacy thesis that is initially the more alarming theme, for it implies that there is ultimately no distinction between government by individual whim and government via the enactment and enforcement of general rules. The interesting question for our purposes is not whether the indeterminacy thesis is correct or incorrect in its basic philosophical underpinnings, but whether the study of law has contributed to, rather than simply plundered, this debate. Here, the main focus seems to be on the legally typical (but not legally unique) process

of applying general terms to particular circumstances since, routinely, law consists of prescriptions and permissions containing a number of general terms of varying degrees of abstraction with a paucity of proper names and other particularities. This generality of law is part of its vaunted political impartiality.

Here there is confusion between the claim that, if the local conventions on meanings were different, then the case would be no longer evident, and the claim that there are no local conventions on which agreement can ever be reached. This latter contention in its extreme form is, of course, unarguable since it can be used self-referentially to make nonsense of the critical thesis. If words cannot be used to communicate, they certainly cannot be used to criticize. In its weaker form it becomes a matter of degree to which there is consensus on the meanings of words or success in establishing agreed criteria for the use of technical language. The mere possibility that any such consensus can be undermined by a clever lawyer, a scheming tyrant, a prejudiced judge or an oppressor class does not establish the incoherence of such communicative objectives.

Once the indeterminacy debate becomes a matter of the degree to which there is or is not agreement on meanings and the extent to which the lack of agreement is utilized to perpetrate hierarchy, then it is no longer a philosophical dogma which negates the very idea of the rule of law and becomes no more than one of the many factors which can intervene to negate the efforts to establish the rule of law. CLS may be descriptively correct as to its factual claims about actual legal systems, but the view that all legal systems must be this way remains an unprovable if sometimes plausible dogma which does not undermine the rule of law as a partially realizable ideal. It may seem intuitively and experientially correct that liberals are mistaken to claim that law is both an instrument of the state and a means of limiting state power, but it remains an open question whether or not law is an essential part of any set-up which seeks to solve this central Hobbesian paradox of politics.

While it is not to be expected that the answer to such profound questions in the philosophy of language will emerge from legal scholarship, CLS has made a sufficiently plausible claim for the weaker version of legal indeterminacy to make the judicial process a prime site for political analysis and a central concern for the political philosopher. At the same time it has stimulated a body of interesting work devoted to demonstrating the political bias of courts.

Perhaps because it did not have a clear positive thesis as to what can be done about this situation, CLS has ceased to be a cohesive and ongoing intellectual movement. However, its critical approach has been taken up and deployed in a variety of areas in which legal studies may be seen to contribute to political theory. This is most evident with respect to Critical Race Theory and Critical Feminist Theory, which have drawn on a wider range of explanations to account for the failure of legal reform to achieve lasting change in the practice of racial and gender discrimination. The methodologies used in these areas deploy narrative accounts designed to capture the experience and complexity of racial and gender discrimination, and place more emphasis on the social processes whereby group stereotypes are socially constructed in diverse and evolving ways. The contribution of legal scholars to this development of critical theory has been considerable (Crenshaw, 1989; Rhode,1997; Okin, 1999), as is further illustrated in the next section on Feminist Jurisprudence.

Feminist Jurisprudence

In this chapter I pick out those areas of legal study which can be shown to have gone beyond absorbing materials from other disciplines and provide significant new ideas and impetus worthy of note in and beyond the sphere of law. Nowhere is this better illustrated than in the area of women's studies in law, which have been transformed from the cataloguing and critique of women's oppression through law and the study of laws as mechanisms for combating sexism to the articulation of a distinctively feminist view of law as such and a genuine theoretical endeavour to identify the core of gender-based domination. 'Feminist jurisprudence' in its most contemporary phase offers powerful arguments to the effect that law itself is a masculine enterprise and that the study of male domination through law reveals the sexual core of male violence and gender hierarchy.

The most recent phase of feminist legal studies manifests an ambivalent attitude towards law, rights and justice. There is little desire to decry the importance of the legally oriented victories which have been attained by the women's movement. The long and hard battles to remove legally enforced gender disqualifications in the spheres of politics and employment; the moves to counter male prejudice by requiring formal equality of opportunity and permitting or requiring 'preference' to be given to women in competitive employment situations through 'affirmative action'; the efforts to bring the domestic sphere more fully into the arenas of civil and criminal law; all these achievements are celebrated and defended with more or less enthusiasm.

On the other hand, the realities of continuing gender inequality in employment, economic well-being and political power, together with the general ineffectiveness of legal remedies for matters of most concern to women, such as domestic violence, rape and employment discrimination, generates a deal of scepticism about the power and relevance of law to the lot of women in modern society. Thus Smart, noting the persistence of gender inequalities, is led to wonder 'why law is so resistant to the challenge of feminist knowledge and critique' (1989, p. 2). Drawing on Foucault's insight into the connections between the authoritative sources of knowledge and societal power, Smart identifies the 'malevolence' of law in its congruence with masculine culture, a culture which uses law to define social categories and behavioural norms in ways that delegitimize women's perspectives. This is illustrated in various legal processes: by decreeing that certain matters are outside the law it is made to appear that law is neutral on matters such as prostitution which involve the exploitation of women; by defining relevance in ways which, for instance, admit in evidence the victim's sexual history but not the accused's, the whole adjudicative procedure is biased against women in rape trials; and by requiring that legal argument be presented in terms of case analysis ensures that if the interests of particular women caught up in the legal process are to be protected, then it is necessary to utilize precedents which embody gender-prejudiced outlooks, so that the practising lawyer has a choice between being a good lawyer or a good feminist. For such reasons, feminists are urged to be suspicious of law and seek other avenues for reform. In Smart's terminology, law is to be 'decentred' so that at least this one epistemological source of male domination can be bypassed.

Not all feminists take such a negative view of the law's potential, and continue to seek radical reform in such matters as redrawing the boundaries between 'public' and 'private' and thus between law and non-law so that women can be protected more effectively in their sexual and economic relationships; or proposing various devices for replacing a male with a female or gender-neutral perspective on legally relevant categories, such as what counts as 'work' for the purposes of compensation. However, the more exciting, if also the more speculative, line is that objectives are bound to be illusory because of the masculine nature of law itself. On this view, it is not simply that men have captured law as an ideological weapon for male supremacy, but that the idea of law expresses a masculine frame of mind. This view can be traced to Gilligan's (1982) findings that the tendency to see disputes in terms of rights and rules rather than in terms of interconnections and accommodations is essentially a male phenomenon. In a return to something akin to the much criticized stereotypes of woman as caring and man as combative, Gilligan's thesis concerning the non-individualistic, even loving, approach to problems of human interaction has been taken up and developed into the thesis that a Fuller-style characterization of law as the 'enterprise of subjecting human conduct to the governance of rules' (Fuller, 1969, p. 96) is a male venture that seeks solutions through dividing lines, creating dichotomies and giving simplistic yes/no answers to complex problems. In Rifkin's words: 'law is a paradigm for maleness' (1980, p. 85), 'the historical image of maleness – objective, rational and public – is the dominant image of law' (ibid., p. 92).

Rifkin's own contribution to this line of thought is an historical one in that she traces women's exclusion from the public sphere in the capitalist world as something that was achieved in the past through the manipulation of developing contract law to express male authority and exclude women from trade and commerce. In the event she seeks to undermine the male paradigm of law as power rather than law itself. Similarly, other theorists look to law adopting a feminist method that will avoid abstract universals and concentration on the observable similarities and different classes of persons and behaviours. Such abstractions, it is argued, have little to offer in seeking a solution to concrete social inequalities. Thus to have a gender-neutral law which prevents employers discriminating against women with pre-school-age children but allows job selection to exclude those who have the duty of caring for such children simply perpetuates the inequality which stems from the social fact that it is women who in practice are the predominant child-carers. Such questions should, it is argued, be solved on the basis of standards that use abstractions only as a method of uncovering the underlying moral issues at stake in legal disputes. In the example cited, the standard commended will be oriented towards eliminating disadvantage. This will enable legislators and judges to see past the abstract concerns about similarity and difference to the social situation which requires women to be compensated for the unfair distribution of the burdens of childcare (Scales, 1980, pp. 395f.).

It is perhaps a terminological matter whether such methods are characteristically 'legal', although they certainly do not fit the rigid rule-based model of liberal positivists. On the other hand, if mandatory decisions are made by courts on the basis of generalized standards then we may be said to have another form of law rather than an alternative to law. Which method is most open to abuse by powerful social groups is clearly a matter for investigation, since generalized standards can be manipulated for

hierarchical ends and specific rules can be exclusionary of oppressed group interests. However, when enforceable decision procedures are replaced by entirely voluntary conciliation processes we have clearly left the sphere of law, but such methods are entirely unrealistic where there are entrenched social inequalities that inevitably render such 'voluntary' processes *de facto* coercive.

Many of the criticisms of law as individualistic, abstract and rights-centred are readily detachable from feminist critique and, indeed, represent long-standing socialist and communitarian responses to the law of liberal capitalism. There is a flourishing literature on this subject (see Sypnowich, 1990; West, 2003). We need to know whether, in addition to exposing the ideological role of modern law with respect to the promotion of liberal individualism, the feminist approach offers a compelling alternative or supplementary theory to explain the force and success of this ruling paradigm.

Here we must note the most powerful law-centred feminist theory articulated by Catharine MacKinnon. MacKinnon is deeply suspicious of Gilligan's line on women's 'different voice', if this implies a biological or other female essence. MacKinnon views Gilligan's data as evidence of socially constructed responses which exhibit women as adopting and expressing male views as to what women should say and be. For MacKinnon the language of altruism, for all its attractions, is the language of submission and, as such, likely to be completely ignored by the forces of male dominance.

In the pursuit of a thoroughly explanatory social theory to account for male oppression which is of sufficient power and scope to rival socialist theories of class exploitation, MacKinnon goes straight to the phenomenon of male sexuality as the underlying cause of gender-related inequality. Her claim is, quite simply, that power is gendered. This does not mean that all power relations are in the end sexual ones, but that all power relations have an important sexual element. Moreover, this sexual element is determined by the dominance and violence within male sexuality. The converse of this thesis is that male–female relationships are essentially political in that they involve a coercive element. The state itself is male with respect to its methods and objectives: 'the liberal state coercively and authoritatively constitutes the social order in the interests of men as a gender – through its legitimating norms, forms, relation to society, and substantive policies' (MacKinnon, 1989, p. 62).

Although MacKinnon presents a general theory of male oppression, her work is centrally about law. Her starting point is the study of such matters as the law of incest, abortion, harassment, male violence and pornography (MacKinnon, 1989, pp. 111ff.). The nature of the theory is particularly clear in her analysis of rape. Here we have a criminal law that appears to protect women but in fact serves to legitimize routine male coerciveness within and beyond specifically sexual relationships. Not only are the rules and procedure such that even prosecution and certainly conviction for rape is rare, but the very fact of identifying certain acts of sexual intercourse as non-consensual and therefore wrong implies that 'normal' sexual intercourse is unproblematic when in fact women's 'consent' in an inegalitarian society is standardly not consent at all, but simply a more indirect form of involuntary submission. In this sense 'normal' men can be rapists in normal situations.

MacKinnon's work comes up against the general problems of the reformative-minded postmodernist who seeks to provide anything more than an *ad hoc* reaction to currently perceived wrongs. She can dismiss some of the testimony of women (e.g. that

they enjoy submissive sex) because this is the expression of a male voice in a female body, but she still holds to the prospect of consciousness-raising to the point where it can express an authentic and female outlook which is evidently preferable to the violent dominance of men and the world-view that it engenders. At this point we may feel that we have passed from lawyers' to philosophers' work, but this is to ignore the claims of a methodology that seeks to base itself on awarenesses which are brought into sharp focus in specifically legal experience. No male epistemologist, it is contended, can counter the shared experience of women in rape and its legal aftermath and how it echoes women's constant experience of being treated as an object of male sexuality (see MacKinnon, 1989, ch. 5; Smart, 1989, p. 790). In this respect her legally centred approach has general applications for political philosophy.

More recently, the argument has returned to debates amongst feminists as to the role of justice and rights (Rhode and Sanger, 2005), and the issues have been broadened to take in more global views via the medium of international human rights law (Charlesworth and Chinkin, 2000).

Law and Society

It is not possible to consider here all the various empirical studies of law and its social causes and effects which have potential impact on political philosophy, but it is worth noting just some of the material that is most prone to spark off conceptual and justificatory debates about the political system as a whole.

First, there is the continuing saga of criminological research, much of which is, of course, state-financed and directed to immediate policy issues within the confines of 'law and order'. Here the incompatibility of deterrence philosophies of punishment with the confirmed data on the ineffectual nature of threatened punishment is well known; so much so that officially oriented criminologists have welcomed the resurgence of retributivist theories, such as that of von Hirsch (1976), as a basis for justifying current penal practices, while political philosophers have called on the retributivist tradition to limit the potentially draconian implications of preventive (and deterrent) utilitarian policies by arguing that no one should be punished beyond the extent that their degree of moral guilt warrants.

Now, while retributivism does not seem to have the same vulnerability to empirical falsification, at least its feasibility as an operative policy can be brought into question. The idea that any legal system can be trusted to get anywhere near convicting the guilty and acquitting the innocent, even if we take it that criminal laws do correlate to some extent with immoral behaviour, seems incompatible with the limited data that are available about the routine operation of the summary justice which represents by far the greatest quantum of criminal cases. The dominant characteristic of mainstream criminal justice is that it is 'fast, easy and cheap' rather than fair, open and adversarial (McBarnet, 1981, p. 153). Deference to police evidence, pre-trial bargaining, coerced guilty pleas, selective policing, inadequate counsel – all these factors lead us to conceptualize standard criminal process as a crude form of ineffective behaviour control with little pretence at any ideal of arriving at punishment in proportion to moral ill-desert. This sort of evidence is reflected in the lively debate in the

philosophy of criminal law between the 'crime control' theorists, who concentrate on the objective of reducing the incidence of undesirable behaviour, and the 'due process' theorists, who concentrate on the protection of the rights of the accused (see Fletcher, 1972).

An example of the way in which such criminological work can spark off original political philosophizing is the use which has been made of John Braithwaite's analysis of the shaming element in criminal process and punishment, which is part of a more general movement to introduce 'restorative justice' as a more effective approach to at least some forms of criminal conduct (Braithwaite, 1989; Strickland, 2004). Braithwaite and Pettit use this as the basis for the development of a 'republican' consequentialist theory of criminal justice, which presents the criminal law as protecting negative liberty through an effective system of rights and duties of which citizens are aware and in which they have confidence, thus contributing to a social ideal embodying equality, dignity and fraternity (Braithwaite and Pettit, 1990). They contrast their approach to that adopted by some modern retributivists, who can draw on the extensive literature on the place of the victim in the criminal process to develop a general theory of justice, in terms of a fair balance between benefits and burdens, which has implications far beyond the confines of law (see Sadurski, 1985).

Similarly in the civil courts it appears clear from such studies as that conducted by Galanter (1974) and Kritzer and Silbey (2003) that the law is no neutral adjudicator between equal parties, but is primarily a mechanism whereby those with the money and the material interests use the courts to process, for instance, their debt collection in a very one-sided battle between those with experience and resources, on the one hand, and those with neither, on the other.

More alarming, perhaps, for political theorists who look to legislation as an index of political change and achievement is the empirical evidence about the ineffectiveness of laws in relation to their ostensive objectives. To some extent these failures can be put down to the false societal assumptions which lie behind much legislation, but it is worth noting the evidence of the extent to which implementation depends on the activities and interests of the regulatory bureaucracies that are charged with their enforcement and the ability of powerful groups with clear and substantial interests at stake to affect the processes of implementation. The most evident examples of this are environmental and occupational health and safety laws which, while they may be assumed to be merely symbolic at the outset, can often be shown to be easily subvertable by those who are likely to be adversely affected by them (see Gunningham and Grabosky, 1998).

To a large extent, this work is simply an extension of the familiar interest group and public choice theories of politics but theorists must be interested in the implementation studies which show just how various and effective are the means whereby rules made are only rarely rules enforced, and rules enforced usually do not have the results intended – although, as Sunstein has shown, this is by no means always the case (Sunstein, 1990).

This work is not unambiguous in its political implications. For a start, it is by no means easy to identify the purpose of any piece of legislation, making it impossible to make a clear judgement on its effectiveness in relation to that purpose. It is particularly easy to confuse the direct effects of legislation on the target subjects and immediate

implementers with the indirect effects on consequent results which are desired. A change in the law may produce more prompt tax returns without thereby increasing total tax revenue (see Griffiths, 1979). Further, laws may have effects quite independent of either their direct or indirect effects, such as promoting a political party's image, or providing for greater social solidarity according to a Durkheimian functionalist schema whereby criminalizing conduct such as taking 'dangerous drugs' leads to a unity-enhancing feeling of communal virtue.

However, the more that empirical studies reveal the ways in which implementation of law can be affected, intentionally or unintentionally, by the actors and agencies involved, the greater scope is given to theories which can suggest ways of combating such inefficiencies. If health and safety standards are not enforced because inspectors are recruited from the ranks of the managers whose performance they are intended to monitor, then the way to ensure better enforcement via more energetic inspection and prosecution seems clear (see Grabosky and Braithwaite, 1986).

All this material suggests that the fact that law in practice does not conform to the formalist model presupposed by the rule of law ideal may be explicable by factors other than the alleged indeterminacy of rules and the cognitive open-endedness. To this extent the sociological explanations for disagreement about law contain the materials for the refurbishment of formalism at least as a partially realizable ideal. In legal circles, this debate is carried on by those regulatory theorists who focus on the intention control of commercial conduct through legal mechanisms (Black, 2000; Parker, 2002; Scott, 2003; Schauer, 2003).

Legal Research and Political Principles

In this concluding section I mention just a few of the many political elements and implications of some particular legal studies in both private and public law to illustrate the way in which law can be an instigator and participant in first-order political philosophizing.

Private law

Theory in legal studies is not confined to specialist and abstract studies but pervades the best work in specific areas of law. While there are still plenty of 'black letter' doctrinal legal textbooks, areas such as contracts and torts are replete with competing theoretical analyses. Thus, the philosophical foundations of contract law are variously said to lie in the moral obligation to keep promises (Fried, 1981), the idea of reciprocation or reliance (Atiyah, 1978; 1979) and the requirement of economic efficiency (Posner, 1977). The first approach fits best with the practice of awarding damages for breach of contract in terms of the expectations of the wronged party in relation to the completion of the contract ('expectation damages'); the second fits best with the tendency to take into account the actual losses incurred by those who take action in reliance on the existence of an agreement ('reliance damages'); while the third fits best with the observation that different measures of contract damages are used in different economic contexts.

It is a source of annoyance to philosophers that legal theorists wish to argue that their theories best describe the actual history and content of law, while it is quite evident that the main thrust of their theories is often directed towards prescriptive conclusions relating to what the law ought to be like. It is not hard, however, to deconstruct the usually overt ambitious historical claims and construe the competing theories as rival evaluations of what is the proper model for contract law to follow.

A distinctive feature of such controversies within legal theory is that they so often lead back to arguments about interpretation, which tie in with our earlier discussion of formalism and realism. Thus, in considering defences bearing on breach of contract, theorists such as Kronman (1980) argue that in seeking to determine the proper limits of such defences as 'duress' or 'necessity', it is not possible to read off an answer from a consideration of the idea of what it is to enter 'freely' into an agreement or to be 'forced' to resile from a contractual arrangement. There are no literal meanings to these terms which are, therefore, always to be viewed in the context of what is considered to be justified or reasonable behaviour. In other words, a formalist approach is unavailing. His suggestion is that the lines between duress and non-duress and between necessity and non-necessity are to be seen purely in policy terms, and he advocates a Rawlsian policy that benefits the weaker and more vulnerable party. Other theorists can, of course, step in and argue for other policy objectives, leaving it to the moral rights theorists to insist that there is independent meaning to be given to concepts such as consent and duress. On the other hand, feminists, for instance, can claim that these disputes demonstrate the inappropriateness of either/or solutions to complex problems of human relationships. Many of these themes are familiar enough to political philosophers in their discussions of political obligation and hierarchy, but the concrete materials provided by legal cases add substance and interest to the development of these themes.

Similar debates take place in the context of tort law, which deals with the allocation of liability to pay compensation for the damage caused by accidents or other harms which may be related to the conduct of others. This literature contains lively exchanges between those who take the utilitarian consequentialist line familiar in the work of Posner (1977) and Calabresi (1970), and those who have sought to reassert the significance of being fair to the individuals involved, such as Fletcher (1983), Epstein (1973) and Weinrib (1989). Parts of this debate are predictable in that the deontological theorists such as Fletcher, Epstein and Weinrib are concerned to see that tort laws should be confined to those instances where individuals have caused harm to others; but the picture is much more confused when it comes to the issue of whether liability should require that there be 'fault' on the part of the person who caused the harm (thus permitting excuses such as compulsion and ignorance) or whether liability should be 'strict' in being attributed on the basis of the causal relationship alone. It might be thought that consequentialists such as Posner would support strict liability as the most effective means of maximizing deterrent effects, while those who stress individual responsibility would place more emphasis on the element of fault. In fact, the position is reversed to some extent, in that Posner's study of the specifics of law leads him to suggest the efficiency of the fault principle, while Epstein takes the line that the standard excuses simply undermine the necessary rigour of a free market system.

Public law

More direct political imports of legal studies are evident in public law, particularly constitutional law, which, on non-formalist interpretation, may properly be regarded as a branch of politics. In the opening words of a most impressive work on the subject: ‘There was a time not long ago when constitutional law seemed in danger of becoming essentially anecdotal and fragmentary . . . Lately constitutional law seems in equal danger of being submerged in political and legal and even literary theory’ (Tribe, 1988, p. 1).

This theme is well illustrated in the debates about rights of communication and expression which centre on the first amendment: ‘Congress shall make no law respecting an establishment of religion, or prohibiting the exercise thereof; of abridging freedom of speech, or of the press; of the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.’ Modern protections for the right of freedom of communication have been extensively developed in the United States on the basis of the first amendment since Oliver Wendell Holmes’s dissenting judgement in *Abrams* vs. *U.S.* (1919).

What is it to abridge freedom of speech, and what is speech anyway? Does ‘no law’ really mean no law? If speech may sometimes be restricted, what reasons must be given and how must they be established? Does the prohibition apply to state as well as federal governments? These are just a few of the legal questions which pass into philosophical realms.

It is clear that not any utterance is beyond abridgment, as the exceptions of defamation and ‘fighting talk’ make clear. Immediately, therefore, we require a theory about the purpose of the protection of free speech if we are to be able to define and circumscribe it in a principled manner. From the modern jurisprudence of the Supreme Court a variety of themes emerge for theoretical development, many of which are variations on the classic statement by John Stuart Mill that freedom of expression is a necessary means for reaching and being justified in knowledge of the truth in a democratic society (Mill, 1859). The Millian theme has been taken in a variety of directions.

Thus, the pioneering work of Alexander Meiklejohn (1965), to the effect that freedom of speech has to do with protecting and furthering the preconditions of self-government and democracy, has been followed by arguments to the effect that freedom of speech is a civilized and civilizing response to the realities of human intolerance (Bollinger, 1986). These basically instrumental views are strongly countered by those who argue that freedom of expression is a deontologically grounded right, an essential ingredient of individual and group autonomy (see Tucker, 1985). Freedom of communication cannot therefore be restricted to political expression (as Meiklejohn argued) or limited by the potential dangerousness of the views or emotions being expressed, unless the speech is in effect directly causing immediate harm, or balanced against competing utilitarian considerations.

These general approaches to freedom of communication can in themselves claim to be legal inputs to political philosophy. Further, the proliferation of interesting and morally relevant distinctions arising from the hard choices that call to be made in the Supreme Court over different attempted restrictions on freedom of expression often

provoke philosophical reflection. Thus the distinctions between the different types of speech: political, economic, etc. (Tribe, 1988, pp. 890–904), and the different devices of protection that may be afforded to them (see Schauer, 1982); the distinction between direct prohibitions of free speech ('communicative impact') and laws which only indirectly affect the flow of ideas (Scanlon, 1972); the shifting line between speech and conduct (Ely, 1975). All this work has a direct relevance to current debates about curtailing civil liberties to meet the allegedly novel situations arising in the 'war or terror'.

More generally, the ongoing debate about the legitimacy of judicial review of legislation by courts is a constant source of important work with a direct bearing on political philosophy. The legal literature here is immense, much of which within the legal academy is directed towards suggesting how constitutional courts should use the power of judicial review, and most of which in the political academy is concerned with empirical accounts of the outcomes of different courts in their different phases. The most arresting work deals directly with the normative issue of the moral propriety of constitutional arrangements in which the political process is theoretically subordinated to a higher law administered by senior judiciaries without direct democratic legitimacy (Holmes, 1995; Alexander, 1998; Loughlin, 2000). Noteworthy here is Mark Tushnet's study of non-justiciable processes of judicial review (Tushnet, 1999) and Jeremy Waldron's formidable exposure of the vulnerable assumption that the human rights issues which such constitutional provisions entrust to courts are uncontroversial and therefore detachable from the democratic process (Waldron, 1999a,b), and his vigorous defence of the political authority of legislatures in such matters, a position that even deliberative democracy theorists such as Jürgen Habermas (Habermas, 1996) appear unwilling to endorse fully.

Many more examples of incipient and fully fledged political philosophizing can be drawn from every area of legal study. I have chosen to dwell on just some of those topics that have a special bearing on the disputed conceptual boundaries between law and politics, particularly where the material has potential application beyond the sphere of law itself. From this survey it seems clear that the discipline of law has much to contribute to the development of political philosophy, particularly when it serves to demonstrate the unresponsiveness of law to contemporary political requirements. As we have seen, many empirical legal studies highlight the ineffectual nature of legal regulation. Whether this is because of the practical difficulties of implementing laws which are unwelcome to those affected by them or run contrary to the interests of powerful groups, or whether it is in the nature of general rules that they cannot be interpreted or applied to achieve specific social purposes, remains the central issue which legal studies raise for the political theorist to consider. What is at stake here is not just the viability of the ideal of the rule of law and its halo of legal virtues which are intended to protect the interests of individuals and minorities, but the very idea that changing laws is ever a particularly sensible political objective. Of course, the same material can, in a more positive vein, often prompt reflection as to how existing legal structures might be rebuilt to overcome at least some of the defects exposed in the process of legal studies. One way or the other, it seems clear that there is much in the discipline of law by way of material, some raw and some at least partially cooked, which political philosophers may find digestible and even sustaining.

References

Alexander, L.: *Constitutionalism: Philosophical Foundations* (Cambridge: Cambridge University Press, 1998).
Altman, A.: *Critical Legal Studies. A Liberal Critique* (Princeton, NJ: Princeton University Press, 1990).
Atiyah, P.: 'Contracts, promises and the law of obligations', *Law Quarterly Review*, 94 (1978), 193.
—: *The Rise and Fall of Freedom of Contract* (Oxford: Oxford University Press, 1979).
Austin, J.: *The Province of Jurisprudence Determined*, 5th edn, ed. R. Campbell, 2 vols (1885).
Ayers, I. and Braithwaite, J.: *Responsive Regulation: Transcending the Deregulation Debate* (Oxford: Oxford University Press, 1992).
Baker, C. E.: 'The ideology of the economic analysis of law', *Philosophy and Public Affairs*, 5 (1975), 15.
Baldwin, R. and Cave, M.: *Understanding Regulation* (Oxford: Oxford University Press, 1999).
Black, J.: 'Proceduralizing regulation: Part I', *Oxford Journal of Legal Studies*, 20 (2000), 597–614.
Bollinger, L. C.: *The Tolerant Society: Freedom of Speech Extremist Speech in America* (New York: Oxford University Press, 1986).
Boyle, J.: 'The politics of reason: critical legal studies and local social thought', *University of Pennsylvania Law Review*, 133 (1985), 685.
— ed.: *Critical Legal Studies* (Aldershot: Dartmouth, 1992).
Braithwaite, J.: *Crime, Shame and Reintegration* (Cambridge: Cambridge University Press, 1989).
Braithwaite, J. and Pettit, P.: *Not Just Deserts* (Oxford: Clarendon Press, 1990).
Calabresi, G.: *The Cost of Accidents: A Legal and Economic Analysis* (New Haven, Conn.: Yale University Press, 1970).
Campbell, T.: *The Legal Theory of Ethical Positivism* (Aldershot: Dartmouth, 1996).
Charlesworth, H. and Chinkin, C.: *The Boundaries of International Law: A Feminist Analysis* (Manchester: Manchester University Press, 2000).
Coase, R. H.: 'The problem of social cost', *Journal of Law and Economics*, 3 (1960), 1.
Coleman, J. L.: *Markets, Morals & the Law* (Cambridge: Cambridge University Press, 1988).
—: *Risks and Wrongs* (Cambridge: Cambridge University Press, 1992).
— ed.: *Hart's Postscript: Essays on the Postscript to the Concept of Law* (Oxford: Oxford University Press, 2001).
Crenshaw, K.: 'Demarginalizing the intersection of race and sex: a black feminist critique of antidiscrimination doctrine, feminist theory and antiracist politics', *The University of Chicago Legal Forum* (1989), 139.
Dworkin, R.: *Taking Rights Seriously* (London: Duckworth, 1977).
—: *Law's Empire* (London: Fontana, 1986).
—: *Freedom's Law: The Moral Reading of the American Constitution* (Oxford: Oxford University Press, 1996).
Ellikson, R. C.: 'The case of Coase and against "Coaseanism" ', *Yale Law Journal*, 99 (1989–90), 610.
Ely, J. H.: 'Flag discretion: a case study in the roles of categorization and balancing in a first amendment analysis', *Harvard Law Review*, 88 (1975), 1482.
—: *Democracy and Distrust: A Theory of Judicial Review* (Cambridge, Mass.: Harvard University Press, 1980).
Epstein, R.: 'A theory of strict liability', *Journal of Legal Studies*, 2 (1973), 151.
Feinberg, J.: The *Moral Limits of the Law*, 4 vols (Oxford: Oxford University Press, 1985–8).

Finnis, J.: *Natural Law and Natural Right* (Oxford: Clarendon Press, 1980).
Fiss, O.: 'Why the state?', *Harvard Law Review*, 100 (1987), 781.
Fletcher, G. P.: 'Fairness and utility in torts', *Harvard Law Review*, 85 (1972), 537.
—: *Rethinking Criminal Law* (Boston, Mass.: Little, Brown, 1976).
—: 'The search for synthesis in tort theory', *Journal of Law and Philosophy*, 2 (1983), 63.
Frank, J.: *Law and the Modern Mind* (London: Stevens, 1949).
Fried, C.: *Contract as Promise* (Cambridge, Mass.: Harvard University Press, 1981).
Fuller, L: *The Morality of Law* (New Haven, Conn.: Yale University Press, 1969).
Gabel, P.: 'Reification in legal reasoning', *Research in Law and Sociology*, 3 (1979), 25.
Gabel, P. and Harris, P.: 'Building power and breaking images: CLS theory and practice of law', *Review of Social Change*, 11 (1982–3), 25.
Galanter, M.: 'Why the "haves" come out ahead: speculations on the limits of social change', *Law and Society Review*, 9 (1974), 95.
George, R. P., ed.: *The Autonomy of Law* (Oxford: Oxford University Press, 1996).
Gilligan, C.: *In a Different Voice* (Cambridge, Mass.: Harvard University Press, 1982).
Grabosky, P. and Braithwaite, J.: *Of Manners Gentle: Enforcement Strategies of Australian Regulatory Agencies* (Oxford: Oxford University Press, 1986).
Griffiths, J.: 'Is law important?', *New York University Law Review*, 53 (1979), 339.
Gunningham, N. and Grabosky, P.: *Smart Regulation: Designing Environmental Regulation* (Oxford: Oxford University Press, 1998).
Habermas, J.: *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy* (Cambridge: Polity Press, 1996).
Hart, H. L. A.: *Punishment and Responsibility* (Oxford: Clarendon Press, 1968).
—: *Essays in Jurisprudence and Philosophy* (Oxford: Clarendon Press, 1983).
—: *The Concept of Law* (Oxford: Clarendon Press, 1961, 1994).
Hirsch, A. von: *Doing Justice: The Choice of Punishments* (Boston, Mass.: Hill and Wang, 1976).
Holmes, S.: *Passions and Constraints: on the Theory of Liberal Democracy* (Chicago, Ill.: University of Chicago Press, 1995).
Horwitz, M.: *The Transformation of American Law 1780–1860* (Cambridge, Mass.: Harvard University Press, 1977).
Kelman, M.: *A Guide to Critical Legal Studies* (Cambridge, Mass.: Harvard University Press, 1987).
Kennedy, D.: 'The structure of Blackstone's commentaries', *Buffalo Law Review*, 28 (1979), 209.
—: 'Legal education as training and hierarchy', in *Politics of Law: A Progression Technique*, ed. D. Kairys (New York: Pantheon, 1982).
Klare, K.: 'The law school curriculum in the 1980s: What's left?', *Journal of Legal Education*, 32 (1982), 34.
Kritzer, H. M. and Silbey, S. eds: *In Litigation Do the 'Haves' Still Come out Ahead?* (Stanford, Calif.: Stanford University Press, 2003).
Kronman, A. T.: 'Contract law and distributive justice', *Yale Law Journal*, 472 (1980), 89.
Lacey, N.: *A Life of H. L. A. Hart: The Nightmare and the Noble Dream* (Oxford: Oxford University Press, 2004).
Littleton, C.: 'Reconstructing sexual inequality', *University of California Law Review*, 75 (1987) 1279.
Llewellyn, K.: *The Common Law Tradition; Deciding Appeals* (Boston, Mass.: Little, Brown, 1960).
Loughlin, M.: *Sword & Scales: An Examination of the Relationship between Law and Politics* (Oxford: Hart, 2000).
MacKinnon, C.: *Toward a Feminist Theory of the State* (Cambridge, Mass.: Harvard University Press, 1989).

McBarnet, D.: *Conviction: Law, the State and the Construction of Justice* (London: Macmillan, 1981).
Meiklejohn, A.: *Political Freedom: The Constitutional Powers of the People* (New York: Oxford University Press, 1965).
Michelman, F.: 'Traces of self-government', *Harvard Law Review*, 4 (1986), 100.
Mill, J. S.: 'On Liberty' (1859), in J. S. Mill, *Utilitarianism, Liberty and Representative Government* (London: Dent, 1910).
Nozick, R.: *Anarchy, State and Utopia* (New York: Basic Books, 1974).
Okin, S. M.: *Is Multiculturalism Good for Women?* (Princeton, NJ: Princeton University Press, 1999).
Owen, D., ed.: *Philosophical Foundations of Tort Law* (Oxford: Clarendon Press, 1995).
Packer, H.: *The Limits of the Criminal Sanction* (Stanford, Calif.: Stanford University Press, 1918).
Parker, C.: *The Open Corporation: Self-Regulation and Democracy* (Melbourne: Oxford University Press, 2002).
Posner, R.: *Economic Analysis of Law*, 2nd edn (Boston, Mass.: Little, Brown, 1977).
Raz, J.: 'Authority, law and morality', *Monist*, 68 (1985), p. 295.
Rhode, D.: *Speaking of Sex: The Denial of Gender Inequality* (Cambridge, Mass.: Harvard University Press, 1997).
Rhode, D. and Sanger, C., eds: *Gender and Rights* (Aldershot: Ashgate, 2005).
Rifkin, J.: 'Toward a feminist jurisprudence', *Harvard Women's Law Journal*, 3 (1980), 83–95.
Sadurski, W.: *Giving Desert Its Due* (Dordrecht: Reidel, 1985).
—: *Free Speech and Its Limits* (Kluwer: Dordrecht, 1999).
Scales, A.: 'Towards a feminist jurisprudence', *Indiana Law Journal*, 56 (1980), 375–444.
Scanlon, T.: 'A theory of freedom of expression', *Philosophy and Public Affairs*, 204 (1972), 1.
Schauer, F.: *Free Speech: A Philosophical Enquiry* (Cambridge: Cambridge University Press, 1982).
—: *Playing By the Rules: A Philosophical Examination of Rule-Based Decision-Making* (Oxford: Oxford University Press, 1991).
—: *Profiles, Probabilities, and Stereotypes* (Cambridge, Mass.: Harvard University Press, 2003).
Scott, C.: *Regulation* (Aldershot: Ashgate, 2003).
Smart, C.: *Feminism and the Power of Law* (London: Routledge, 1989).
Strickland, R. A.: *Restorative Justice* (New York: Peter Lang, 2004).
Sunstein, C. R.: 'Pornography and the first amendment', *Duke Law Journal*, (1986), 589.
—: *After the Rights Revolution: Reconceiving the Regulatory State* (Cambridge, Mass.: Harvard University Press, 1990).
—: *Designing Democracy* (Oxford: Oxford University Press, 2001).
Sypnowich, C.: *The Concept of Socialist Law* (Oxford: Clarendon Press, 1990).
Tribe, L. H.: *American Constitutional Law*, 2nd edn (New York: The Foundation Press, 1988).
Tucker, D. F. B.: *Law. Liberalism and Free Speech* (Totowa, NJ: Rowman and Allanheld, 1985).
Tushnet, M.: The *American Law of Slavery* (Princeton, NJ: Princeton University Press, 1981).
—: *Taking the Constitution Away from the Courts* (Princeton, NJ: Princeton University Press, 1999).
Unger, R.: *Law in Modern Society* (New York: New York University Press, 1975).
Waldron, J.: *Law and Disagreement* (Oxford: Oxford University Press, 1999a).
—: *The Dignity of Legislation* (Cambridge: Cambridge University Press, 1999b).
Weinrib, E.: 'The special morality of tort law', *Yale Law Journal*, 97 (1989), 949–1016.
West, R.: *Re-Imagining Justice* (Aldershot: Ashgate, 2003).

Further reading

Ackerman, B. A.: *Social Justice in the Liberal State* (New Haven, Conn.: Yale University Press, 1980).
Coleman, J. L. and Shapiro, S., eds: *Oxford Handbook of Jurisprudence and Philosophy of Law* (Oxford: Oxford University Press, 2002).
Dworkin, R. M., ed.: *The Philosophy of Law* (Oxford: Oxford University Press, 1977).
Goodrich, P.: *Legal Discourse* (London: Macmillan, 1987).
Guest, A. G., ed.: *Oxford Essays in Jurisprudence* (Oxford: Clarendon Press, 1961).
Hacker, P. M. S. and Raz, J., eds: *Law, Morality and Society* (Oxford: Clarendon Press, 1977).
Hart, H. L. A.: *Essays in Jurisprudence and Philosophy* (Oxford: Clarendon Press, 1983).
Hirst, P. Q.: *Law, Socialism and Democracy* (London: Allan & Unwin, 1986).
Honore, T.: *Making Law Bind* (Oxford: Clarendon Press, 1987).
Horder, J., ed.: *Oxford Essays in Jurisprudence*, 4th series (New York: Oxford University press, 2000).
Kairys, D.: *The Politics of Law* (New York: Pantheon Books, 1982).
MacCormick, N.: *Legal Right and Social Democracy* (Oxford: Clarendon Press, 1982).
Patterson, D., ed.: *A Companion to Philosophy of Law and Legal Theory* (Oxford: Blackwell, 1996).
Raz, J.: *The Morality of Freedom* (Oxford: Clarendon Press, 1986).
Simpson, A. W. B., ed.: *Oxford Essays in Jurisprudence*, 2nd series (Oxford: Clarendon Press, 1973).
Summers, R. S., ed.: *Essays in Legal Philosophy* (Berkeley, Calif.: University of California Press, 1968).

Part II

Major Ideologies

Chapter 10

Anarchism

RICHARD SYLVAN

Most of the seminal and interesting work on anarchism has come from outside universities and standard intellectual circles. Academics have contributed histories (e.g. Ritter, 1969), surveys (e.g. Woodcock, 1962) and (usually not-so-sympathetic) criticisms (e.g. Miller, 1984). With a very few exceptions, however, they have contributed little original anarchist thought.

Academics seem ideologically stuck with the state. 'Most political philosophers in the past few generations have what the psychoanalysts might call a "state fixation" ' (Mitrany, 1975, p. 98). 'The idea of abolishing the state entirely must', they say, 'strike us as utopian' (Miller, 1984, p. 182); anarchists, of course, would regard it as 'eutopian'. It is easy to speculate on reasons for these attitudes, connected with academics being part of the expensive state scene. While anarchism has vanished from the mainstream academic scene, it is again becoming prominent in alternative, especially green scenes (e.g. Bookchin, 1989), and in work of disaffected academics with green affiliations.

Anarchism is considered essentially a modern ideology, arising after and in opposition to the modern state. Though there are significant anticipations of anarchism in earlier philosophy (notably in Stoicism and Taoism), and though there are worthwhile examples of early anarchistic societies, the main intellectual work begins only in the late eighteenth century with the eruption of the French Revolution. Originally, 'the word "anarchist" . . . was used pejoratively to indicate one who denies all law and wishes to promote chaos. It was used in this sense against the Levellers during the English Civil War and during the French Revolution by most parties in criticizing those who stood to the left of them along the political spectrum' (Woodcock, 1962, p. 111). It was first prominently used in an approbatory way in Proudhon's *What is Property?* (1840), where he describes himself 'as an anarchist because he believed that political organization based on authority should be replaced by social and economic organisation based on voluntary contractual agreement' (Woodcock, 1962, p. 111; cf. Lehning, 1968, p. 71). Since then there have been waves of anarchistic output of varying strength, most recently in the late 1960s.

Explication

Philosophically, anarchism is the theory, principles or practice of anarchy. It refers, according to the dictionaries, to the 'lack of coercive government', the 'absence of a political state', the 'want of authoritarian political heads or leaders, institutions or organizations'. In its normal political form, the term is applied to societies or communities, territories or countries. Politically, there are three key structural components: authority, coercion and, normally comprehending both, the state. The notion has recently been extended beyond political arrangements to apply to other institutional forms, such as the church, science and law, to mean alternative forms lacking authoritarian structure and coercive methods. Thus appear such varieties as epistemological anarchism and philosophical anarchism. Although it is political anarchism upon which this essay focuses, those other far-reaching analogies should not be lost sight of. They matter. Anarchism is to political authority as atheism is to religious authority, and rather as scepticism is to scientific authority.

Principles, central and otherwise

Although the conditions specified for anarchy are normally taken as conjoined, it is possible to construe them disjointly, yielding what could be called 'diluted' anarchism. One diluted form which has obtained a little exposure is an anarchism appropriately opposed to the state but prepared to endorse carefully controlled coercive authorities. A differently diluted form is a *de facto* anarchism, which is opposed to all prevailing states because of some serious (but in principle removable) defect in each and every one of these states. This sort of anarchism is not opposed to the very idea of an ideal state or to a new wonderful order of states; it is not, so to say, a principled anarchism. It is sometimes difficult to ascertain whether historic anarchists are principled anarchists or merely *de facto* ones. There are limits, however, to how far definitional dilution should be allowed to proceed: a theory such as Nozick's (1974) libertarianism, postulating a minimal coercive centralized state, exceeds acceptable bounds of dilution.

In place of awkward locutions involving notions like 'absence', 'lack', 'want', anarchy can be better characterized in contrast to what it rejects: 'archy', or centralized coercive forms. That simpler formulation, anarchy as the rejection of archy, isolates the principle at work beneath arguments for anarchism. In so doing, it makes it immediately evident that much of what might vulgarly pass for essential features of anarchism actually are not.

Firstly, a variety of political arrangements and organization, including governments of certain sorts, are entirely compatible with anarchy. All that is required is that these arrangements not include authoritarian or coercive elements. Certainly it is true that a territory without government, and therefore lacking an archist government, is anarchistic, but the popular converse fails: an anarchistic system may well have a small, smooth-running public administration, free of authoritarian elements (as did, for example, several societies substantially destroyed by European conquest). It may also be true, as dictionaries assert, that an anarchist would 'oppose all existing systems of

government', but this is not a matter of meaning: it is crucially contingent upon the character of prevailing state systems (cf. Clark, 1984, pp. 118ff.).

Nor are prevailing political forms everywhere so far removed from anarchistic alternatives, as a partial example indicates. When traffic police stop work, traffic keeps on going much as before. It is irrelevant to object that such anarchistic periods are mere interludes, presupposing surrounding authoritarian structures (somewhat as anarchistic end-states of Marxism are premissed on preceding super-productive authoritarian states). The point of such thought experiments is simply to demonstrate the error in the common assumption that anarchism is utterly remote from the political practice of complex modern states.

Such arrangements may be realizable as more than an interlude only in restricted or anomalous circumstances. The stronger anarchist theme is that there is never any need at all for authoritarian or coercive regulation – so such forms can be rejected universally. Universal anarchism encounters many problems (such as how to rectify especially degenerate or evil societies) which do not trouble less ambitious particular anarchisms such as those to be advanced here.

An attempt is sometimes made to render all anarchism universal, through the connecting thesis that for anarchism to succeed anywhere it must succeed everywhere (perhaps because otherwise it will be destroyed by ruthless or greedy states). The connecting thesis, though popular with critics, is implausible, however.

Just as it is mistaken to assume that anarchism is incompatible with government, even well-regulated government, so too is it erroneous to assume that anarchism is incompatible with organization, with regulation, with a positive non-coercive 'law', with order. Likewise mistaken, therefore, are the widespread assumptions that anarchism entails disorganization, disorder, confusion, lawlessness, chaos. Yet all these negative associations have been incorporated into degenerate popular meanings of anarchism. It is the same with related assumptions that anarchism implies violence, paramilitary activity or terrorism. A popular picture of the anarchist, encouraged by authors like Conrad, is the excitable fictional character with a bomb in his pocket – not a Tolstoy or a Thoreau. These too are assumptions and pictures, with little basis either in semantics or in general anarchist theory or practice, promulgated by an unsympathetic opposition generally comfortable in present political systems or unaware of alternatives. Much of what is popularly and journalistically associated with anarchism consists of optional extras which are neither necessary nor even typical features of it. This is true not only of negative characterizations but also of other more benign features widely taken to characterize anarchism. Included here are attempts to tie anarchism to individualism, voluntarism, spontaneity or socialism.

With anarchy as with many other valuable terms, there has been a concerted effort at confusion or destruction of meanings – part of an extensive terminological vandalism in human intellectual affairs. Rather than reconciling ourselves to sacrifice of the damaged term 'anarchism', let us salvage the term explicitly for the pristine notion, isolating the conventional associations under the term 'degenerate anarchism'. Most of the fictional anarchists depicted by authors supportive of the present state system are degenerate and thus unrepresentative of real anarchists. There are many anarchists who are not terrorists, few who are; there are many who are not dangerous

troublemakers bent upon violently upsetting local settled order; increasingly, there are many anarchists within peace and environmental movements.

While organization and government are entirely compatible with anarchism, that most conspicuous modern institution – the state – is not. It is the paradigmatic archist form. Nor are ancient power formations such as the empire and the kingdom really compatible with anarchism, owing not only to their authoritarian character and their extensive use of coercion and violence but also to their central organization. But it is wrong literally to define anarchism in terms of 'hostility to the state' (as in Miller, 1984, p. 5). Again, that is not a feature of anarchism but rather a contingent and consequential one, derived from the conjunction of anarchism's defining features together with a particular standard theoretical characterization of 'the state'. Under a standard (though strong – stronger than necessary for anything that follows) characterization, the state is:

> a *distinct* and *sovereign* body[:] . . . it claims complete authority to define the rights of its subjects . . . Second, the state is a *compulsory* body, in the sense that everyone born into a given society is forced to recognise obligations to the state that govern that society. Third, the state is a *monopolistic* body: it claims a monopoly of force in its territorial area, allowing no competitor to exist alongside it. (Miller, 1984, p. 5)

It also normally claims other monopolies, such as on legal tender. It is virtually inevitable that such a state is a centralized authoritarian institution with extensive coercive powers. So it is that anarchism is often epitomized as directed at the dissolution of what is widely seen as *the* major political problem, the state. (As to why it is such a problem, anarchist critiques of the state, sketched below, will reveal.) With anarchism in a place, there is an end to any institution that is recognizably a state of that form.

A refinement

Early English uses of 'anarchism' emphasized the corrupt, drunk-and-disorderly side of the notion, contrasting disorder with splendid state order: that was what (in defiance of the original Greek meaning) 'anarchy' and 'anarchism' were introduced to mean (see the *Oxford English Dictionary* citations from the sixteenth and seventeenth centuries). Thus the early usage, which persists, contradicts what is here presented as the refined usage.

In technical presentations, this problem might easily be sliced through by coining a term to mean what 'anarchy' as refined means ('anakyrie' and 'anacracy' are such terms). Here, however, we shall simply persist with the refinement of the prevailing term – and in the course of giving it etymological justification over the early corrupt uses, further refine. But the justification for refinement is not only etymological. What we need is not yet another term for disorder but, rather, a term to help break the false dichotomy between 'the state', on the one hand, and 'political disorder', on the other. Such a dichotomy falsely suggests that there are no further alternatives (like stateless order of various kinds) and that without the state there is no political theory, merely untheorizable confusion.

Etymologically 'anarchism' derives from the ancient Greek *an-archos*, meaning 'without a chief or head' or 'without a top authority'. Of course, what the form derives

from, though often indicative, does not determine what it now means. (Anarchism was not, after all a distinguished ancient political theory; under familiar classifications, it is in fact the most recent and novel of major political ideologies.) Here, however, it is worth drawing out the etymological meaning because it is revealing. What it appears to exclude are political arrangements structured with a top element of any of the familiar authoritarian sorts (a monarch, a prince, a ruler, a leader, a president, a prime minister) and shifting from individual to group forms (a party, a clique, a ruling elite, etc).

There are, analysis reveals, two interacting foci: (1) a top or centre; and (2) control or dominance flowing from this top, by what are adjudged inadmissible (in particular, authoritarian or coercive) means. A chief both stands at the top of a power hierarchy and exercises authoritarian control from there. Under this elliptical double-foci refinement, anarchy entails structure or organization without inadmissible top-down or centralized means. Let us look at the foci in turn, beginning with the more independent one: the top.

Topologically, 'without a top' amounts to 'without a centre', because by topological transformations ('bending') what is a top transforms to a centre, and vice versa. Thus, in excluding top-down relations, anarchism also excludes arrangements structured with a controlling centre, such as a ruling central government. Anarchism thus implies decentralization, but in a precise sense. Eliminating the centre does not thereby also remove all structure. It leaves available the possibility of a rich variety of structures, including network arrangements with no centres or with multiple 'centres' (federal structures, and suchlike).

Remarkably, the main features adduced are mirrored in logic, which can serve as a structural guide. It is striking, as well as technically advantageous, that logical and political predilections converge. Mainstream ('non-relevant') logics have algebraic structures with top elements, Boolean algebras in the case of classical logics. By contrast, 'relevant' logics, which now challenge the classical logical paradigm, do not; their corresponding algebras need include no top element (Dunn, 1986). A plurality of local 'centres', regional nodes, induces no paradox.

Technical comparisons now reach much further than logic alone. Intelligent organization without top or central elements may abound both in nature (for instance, in insect cerebral organization and in vertebrate brain structure) and in many future artificial intelligence applications. Logic and computing technology demonstrate what is widely appreciated outside political theory: that topless is feasible. There is thus both scope and need for twenty-first-century anarchism to be highly technologically sophisticated.

There is, however, more to anarchism than lateral structuring, more than political structure without an operative top or head or centre. That more, the residue of the rejection of archy, is bound up with the operation of the active top, with the control it exercises, the power it exerts. Anarchists, generically, insist that it not operate 'by unacceptable means'; but as to what count as unacceptable means, different types of anarchists would offer different specifications. These include force, coercion, authoritarianism (and systems implying any or all of those, such as totalitarianism). More controversially, they might be said to include any means that are non-voluntary, non-individualistic, socialist or communist. As in the dictionaries, only coercive and

authoritarian elements will here be ruled unacceptable in terms of undiluted anarchism. Holistic and tribal means are anarchistically admissible, as are utterly individualistic ones.

The two features are connected through the anarchist's response to the obvious question, 'If there is no head, top or centre, how are political affairs structured?' A standard anarchist response – not essential for mathematical structure, but incorporated in the modern definition of anarchism – goes as follows. There should be organization, of course. But that organization should be by acceptable means. That entails non-coercive, non-authoritarian organization. And that, in turn, is typically (though, again, by no means necessarily) taken to involve voluntary and co-operative organization.

Elaboration

There are many anarchist theories. For an anarchist theory is just *any* laterally structured theory which duly conforms to the principle of rejecting political authority and coercion. While received anarchist theories often try to restrict anarchism to certain more specific forms, 'pluralistic' anarchism does not. Plural anarchism not only admits plurality but takes social advantage of it.

Not all of these anarchisms are of equal merit, however. Some forms (like those terroristic, violent or chaotic varieties of journalistic imagination) are decidedly undesirable, in much the same way in which the nasty states of modern history which anarchism opposes are undesirable. While standard anarchisms have been located in the more desirable or even eutopian end-range of anarchist systems, they by no means exhaust the satisfactory, or even the most promising, forms (see pp. 273–6). Indeed, in important respects the desirable range is significantly open for further elaboration of newer (and greener) forms.

As varieties of anarchy diverge widely so too, correspondingly, do motivations and justifications for these divergent forms. These motivations range from entirely theoretical (conceding the warranted force of political scepticism) to practical (changing the local world); from personal and perhaps selfish (getting the state off one's back, or out of one's business and one's till) to other-directed (eliminating a state oppressing its people) or environmental (disestablishing another vandalistic state). Common motivations trace back to the common character of anarchism: repulsion by or opposition to oppression and domination, perhaps generalized from the state to all its variants and institutions, perhaps generalizing still further to all gross power relations. Indeed, it is sometimes suggested – correctly as regards gentler anarchisms – that what anarchy is really all about is gross power relations, their reduction and removal; the coercive and authoritarian power of the state are but paradigmatic of such domination relations. There are other liberal democratic motives, further varying this theme: a yearning for removal of constraints, and for more extensive freedom; or a desire for more extensive equality, which would of course diminish those inequalities which power delivers. Such motivations, too, have illicitly worked their way into variant characterizations of anarchism.

Many anarchists are joined by opposition to all naked authority or coercion. Indeed 'behind the anarchist attack on the state and other coercive institutions, there has often

stood a fundamental critique of the idea of authority itself' (Miller, 1984, p. 15). An important, though certainly not invariant, motivating reason for anarchism does derive from a more sweeping anti-authoritarianism: the theme that no person or organization can ever rightfully exercise authority (of a political cast) over another. Picturesquely, it is the theme that no authority is justified: no one, state or other, has a right to push another around. Such general opposition to the principle of authority is dubbed 'philosophical anarchism' by Wolff (1970), terminology which is unfortunate in light of Feyerabend's (1975) different challenge to much in philosophical theory and practice going by the same name. Here some further classification helps. A *principled* anarchism takes exception on principled, characteristically ethical, grounds to objectionable authority or to coercion. Both grounds merit consideration.

There are many types of authority relations, not all of which are objectionable. Consider, for example, the relation of a student to an authority in some field of knowledge, who can in turn back up expert judgements by appeal to a further range of assessable evidence. Such an authority might be called 'transparent' (or 'open'), because anyone with time and some skill can proceed past the authority to assess claims made. Contrasted with these are 'opaque' (or 'closed') authorities, who simply stand on their position or station; such authority is objectionable in part because of its dogmatic character. Closely allied is the category of 'substantially opaque' authorities, who appeal to a conventional rule or procedure ('that is how things are done' or 'have always been done') without being willing or able to step beyond some rule book. Rule-book authorities are commonplace in bureaucracies, which often encourage such practice in lower-level officials. With 'indirectly opaque' authorities, the justificatory procedure stops a step further back: there is a set of rules, which has been enacted (for reasons not open to, or bearing, examination) by a further substantially opaque authority.

Other authority relations are objectionable because of the way in which (or the means by which) they are backed up. There is nothing objectionable in the authority figure which exercises authority through the power of example, where what it exemplifies is in its turn satisfactory. Not so relations backed by coercive means, by violence or threats of violence: big-stick authority relations. For instance, pacifists, being opposed to violence, condemn such relations on moral grounds, whereas they would not lodge any similar objections to non-violent and 'carrot' methods of trying to get things done. The overlay of this dimension on the other is represented in Figure 10.1.

It will be evident that the objections to non-benign authority relations – to what in clear cases may be presented as 'authoritarianism' – can be of significantly different sorts. To more opaque authority relations, there are objections of 'Enlightenment' cast: reason is lacking for what an authority requires, proposes or asserts, as was the case in the authoritarian religious and political practice against which the Enlightenment was primarily targeted. (A significant strand of anarchism, a more theoretical anarchism, is a descendant: undisclosed 'reasons of state' are not adequate reasons.) To more coercive authority relations, there are objections from 'pacifist' devotees of non-violence. To both there may be a kind of 'liberal' opposition: the party subject to authority is being denied, in one way or another and for unacceptable reasons, a certain freedom sometimes explicated as autonomy (Wolff, 1970, following Kant). Naturally, then, 'liberation' movements are directed at breaking down authoritarian power

Back-up / Methods	carrot	stick
transparent	Possibly benign	Pacifist opposition
opaque	Enlightenment opposition	Liberal opposition

Figure 10.1 Matrix of authority relations

relations, domination relations: masters over slaves, humans over animals, men over women, adults over children and so on. On a par with that is the authoritarian power of states over citizens. Thus, a comprehensive civil liberties movement would merge with anarchist movements.

There are objections to closed authority, quite independently of the generally regressive methods usually deployed to back it up. First, by virtue of its very character, it is without ethical justification. Secondly, it is incompatible with other perhaps absolute desiderata, most notably autonomy. Because the state operates as a closed authority, the point permits nice development into an argument, from autonomy to anarchism (thus Wolff, 1970; many archist critics have tried to bury Wolff).

There is a range of analogous objections to, what is very different, coercion and coercive methods. These are generally recognized to be ethically undesirable, if not outright impermissible (cf. Dahl, 1989, p. 42).

Arguments against and for the State

Beyond the theoretical arguments for principled anarchism, the main argument for anarchism can be concentrated in a detailed critique of the state, and therewith of state-like institutions. Anarchist critiques of the state assert that: states and state-like institutions are without satisfactory justification; such institutions are not required for organizational purposes; such institutions have most inharmonious consequences, bringing a whole series of social and environmental bungles or evils in their train. In brief, they are unnecessary, unjustified evils.

The anarchist critique of the state does not end there, however. It typically includes further themes, such as: states are devices for channelling privilege and wealth to certain minorities with inside linkages to state power; and societies are not ineluctably saddled with states but, rather, states can be displaced or even decay (though they are unlikely to just wither away).

A corollary is that political obligation lapses. Insofar as political obligation is obligation with respect to the state, political obligation vanishes with the exposure of the state for what it is and as without due justification.

The state is undesirable, or even downright evil

Anarchists maintain that states entrench inequities, domination and exploitation. States are devices for the protection of wealth, property and privilege; they redistribute upwards, and often concentrate, wealth and privilege. A minor but popular illustration is offered by the expensive conferences and other junkets that state employees or party officials organize for themselves and manage to bill to state revenue, in turn sucked up from inequitable taxation. Certainly a main historical outcome of the state has been domination or exploitation of certain segments of society by others, and some see its main, and barely concealed, purpose as just that: domination and exploitation.

States are typically corrupt. There are enquiries presently in train in many states in Australia, for example, which have revealed considerable corruption; there are *prima facie* cases for similar enquiries in most of the remainder. Nor is this a new phenomenon: these revelations often resemble older or ongoing scandals.

States are enormously expensive, and constitute a heavy drain upon regional resources and accordingly on local environments. In poorer regions they are not merely a heavy burden but a main cause of impoverishment. One reason for their voracious appetite is an excess of over-remunerated and often under-productive state employees. Another connected reason is that many state operations are far from lean and efficient; instead, they incorporate many duplications, drag factors and dead weight. Under anarchisms of all varieties, these heavy cost burdens, weighing down subservient populaces, would be shed. Costs of organization would be very significantly reduced.

States have excessive power and are continually accumulating or trying to accumulate more, through more centralization, further controls, additional licences and so on. Obvious responses to excessive power are separation of powers, achieved by decoupling and some fragmentation and limitation of powers. Modern separations of church from state, and executive from administration from judiciary, illustrate broad separation procedures. Functional decomposition, breaking powers down to specific functions, carries that separation further, and continues it with sharp limitations of the powers of resulting departments. It can be combined (as will appear) with earlier anarchism, which aimed to curtail power through institutional excision, decentralization and federation.

States are major impositions on everyday life. They are intrusive and demanding. Never has this been more forcefully expressed than in Proudhon's famous denouncement of state government:

> To be GOVERNED is to be at every operation, at every transaction, noted, registered, enrolled, taxed, stamped, measured, numbered, assessed, licensed, authorized, admonished, forbidden, reformed, corrected, punished. It is, under pretext of public utility, and in the name of the general interest, to be placed under contribution, trained, ransomed, exploited, monopolized, extorted, squeezed, mystified, robbed; then, at the slightest resistance, the first word of complaint, to be repressed, fined, despised, harassed, tracked, abused, clubbed, disarmed, choked, imprisoned, judged, condemned, shot, deported, sacrificed, sold, betrayed; and, to crown all, mocked, ridiculed, outraged, dishonoured. That is government; that is its justice; that is its morality. (1923, p. 294)

As a result, there are constant demands for the reduction of the cancerous state, for removing parts of it through deregulation, for selling off state enterprises and so on. There are two troubles with such demands from anarchist standpoints. First, they never go far enough, to the complete reduction of state activities to zero: they characteristically retain parts supportive of bigger business. Second, they proceed in the wrong way: they strip away social safety nets, rather than ripping off business support nets (such as limited liability, strike-limiting legislation, and so on).

States, for all that they have been promoted as delivering public goods, are mostly dismal news for environmental protection and health and for social justice. Furthermore, they are liable to impose substantial hazards or risks upon subservient populations – not merely through military and like activities but, more insidious, through support and promotion of dangerous industries, such as nuclear and giant chemical industries.

States usually exert a heavy pressure to uniformity; they tend to eliminate plurality and cultural differences. These pressures are exercised by a state in the alleged interests of national unity against its enemies, external and internal. Even the most liberal of states tends to make the lives of minorities more difficult in times of stress, such as war. They are always espousing national values, state interests and commonly assimilation and adoption of state values. Such exercises are conspicuous, not only in citizenship ceremonies and other state rituals such as national sporting and religious events; more importantly, they are virtually ubiquitous in elementary education.

States are a major source of wars, and the major source of major wars, which are undoubted evils, however supposedly inevitable. They are major sources and suppliers of military technology and weapons, the means of war. Roughly, the more powerful and 'advanced' a state, the further it is engaged in weapon production and export. Without states it is doubtful that there would be any nuclear weapons, and accordingly, without weapons with which to fight them, there would be no prospect of nuclear wars.

States are in other respects, too, a serious drag on a more satisfactory international order. That there are not more, and more satisfactory, international regulatory organizations 'is mainly a matter of the reluctance of nation states to surrender their powers and the dangers of their being dominated by very powerful states. If only nation states would be dissolved into specialized [departments] there is every reason to believe that most world problems could be handled by appropriate specialized [organizations]' (Burnheim, 1986, p. 221).

Two corollaries emerge. Firstly, states cannot be justified merely historically, by virtue of being in place or having evolved. Unsatisfactory items in place, like man-made or natural disasters, lack justification and sometimes permissibility. Nor, secondly, can they be given a straightforward utilitarian justification. For states appear far from a good bargain on a preliminary consideration of costs. That is especially true of bad states (far from uncommon), which engage in politically motivated incarceration or torture of their citizens, and so on. Where are the compensating benefits? Would we really be significantly worse off without these bad states, or even the better cases? Apparently not, especially given that we can get along without them (allowing for alternative non-statist arrangements which states have precluded or systems they have usurped). But arguments for states are not usually so directly utilitarian, or simply

historical, in character. Such arguments would make it look as if we might well opt out of state organization, and often be better off doing so. No, it is contended that, contrary to appearances, we cannot get along without state cossetting: states are necessary.

The state lacks adequate justification

The state is not a self-justifying object. But none of the justificatory arguments to the state are cogent. A familiar theme concedes that the state is problematic but claims that it is a necessary evil. But the contrary seems more nearly correct: states, though generally evil, are hardly necessary. It needs stressing, furthermore, how weak the necessity claimed has to be. For it is becoming increasingly easy, with the advances in logical modellings and computer simulations of other worlds (involving 'virtual states', and the like) to envisage accessible worlds organized without modern states.

No doubt, then, the necessity has to be of some more *pragmatic* sort – a 'social human necessity', for example, appealing to emergent features of humans, kinks of human nature, obtruding in unfavourable situations of high concentrations and extensive scarcity. (These are, of course, situations which states themselves have helped contrive.) Remarkably, none of the extant arguments leading to the state make it plain that such a weak pragmatic 'necessity' is involved, though they would hardly establish more. And they *do* make strong, implausible assumptions about the invariably brutal situation outside states (in 'states-of-nature' and so on) and about human motivation and practice (its utterly selfish, self-interested, acquisitive and frequently debased character.

Mostly, little serious effort is any longer made, outside a few abstruse texts, to justify the state. Within contemporary institutional arrangements the state (like Big Science) is simply taken for granted: as axiomatic, as God was under medieval arrangements. But unlike God – who was good personified and therefore had a large problem with the extent of evil in the world – the state is acknowledged as problematic and far from unimplicated in the evil of the world. Such a problematic object cannot stand up as merely postulated. Nor is there any argument for the state, corresponding to the ontological argument for God, as that organizational structure than which nothing more perfect can exist. Outside the flawed imagination of German idealists there is no such Super State: all actual states are manifestly highly imperfect; all humanly realizable ones are likely similar.

As a result of the institutionalization of the state itself as a received and central part of modern political arrangements, the onus of proof has become curiously inverted. Efforts to justify the state have become fairly ideal and academic, no longer a serious issue; and the onus has thus been transferred to anarchists to demonstrate that human social life could proceed well and smoothly (as it now does, of course) without states.

While anarchists are not absolved from offering some account of operations of good social lives without states (for except in fairy tales it does not all just emerge, unplanned, in the new stateless setting), neither are statists absolved from justification of *de facto* statist arrangements, beginning with the state itself. Insofar as efforts to justify the state as pragmatically necessary are attempted, these generally take one of the following forms.

Ideal reconstructions

Justifications for the state sometimes rely upon ideal reconstructions or political thought experiments, which relate the mythological development of the state from an imaginary pre-state situation. The most notorious of these constructions are the social contract theories (of Hobbes, Rousseau, recently Rawls), whereby individual members of a society fictitiously enter into an enforceable contract, inescapably for themselves and all their descendants, setting up the state, primarily as a security arrangement (Gough, 1936, investigates 2000 years of such justificatory attempts, concluding that none such succeed). In later versions there is much negotiating and bargaining in contrived situations, where humans lose many of their distinctive features and accoutrements in a effort to ensure some initial fairness (Rawls, 1971).

A variant on contract theories, which justify some sort of state arrangements *as if* they arose in an ideal way, is retro-justification of the state as naturally arising as a sort of super-insurance agency from (suitably contrived) pre-state arrangements. For example, the minimal state evolves from a competing set of state-like security agencies one of which somehow, through some 'invisible hand', gains a monopoly, and is retro-justified through insurance arguments concerning risk and compensation (Nozick, 1974).

Now, modern states did not arise in any such 'natural' or contractual way. Often they were imposed by conquest or through colonization, and (with a few exceptions) using military means rather than by offering much sweetness and light and choice. Nor do the ideal constructions or mythic histories offer much justification for these resulting state power configurations. For the states so delivered are very different from those most people presently toil under.

In any case, the arguments involved do not succeed. They are extraordinarily full of gaps, by the standards of contemporary logic; and they depend upon some utterly implausible assumptions (for example, as to how vile conditions are in extra-state situations, as to how property is distributed there, and so on). No doubt some of the gaps could be plugged by further (furthermore, contestable) assumptions; but such analytic work remains to be attempted and assessed. Meanwhile the state continues to operate, unjustified.

In any case, such arguments characteristically exhibit unlikely and even paradoxical features. For example, in consenting to a political state for security purposes, participants proceed to establish an institution which is far more dangerous to them than the power of others taken distributively. Presumably those smart enough to enter into a social contract for a state would be smart enough to foresee the problems of hiring a monster – and to avoid states in consequence.

Finally, these arguments, even if somehow repaired, would not establish an institution with anything approaching the power and complexity of the modern state. Arguments leading to the state typically establish only a rather minimal state, with certain protective and regulatory powers. Such a minimal state would not deliver many of the goods which economists, still less socialists, have come to expect of the state. The arguments certainly do not establish anything like the oppressive paternal state with a panoply of powers to which many citizens are forcibly subject – powers states have accumulated by their own unjustified predatory activity. In this respect too, arguments

for the state resemble arguments for God (Routley and Routley, 1982). Deistic arguments characteristically establish (insofar as they establish anything) only a quite minimal 'that which': a first cause, a most perfect object, a universal designer, 'clockmaker' or the like. They do nothing to establish many of the powers or properties ascribed to God.

Unavoidable state functions

A second approach in trying to justify the state is couched in terms of the functions which the state discharges. The state is necessary *for* this or that. In particular, it is necessary for the optimal provision of public goods (including, but not limited to, preservation of public order).

Notice that this important type of argument need not presume to establish necessity. It is obvious, from the operation of nastier states, that societies can function not only without optimal provision of public goods, but indeed with very little *state* provision of any such goods. It would, moreover, be a rash archist who pretended that modern states deliver anything remotely approaching optimal allocations of public goods. The two things follow. Firstly, justificatory exercises which (like those drawing on game theory) assume optimal assignments fail as entirely unrealistic. Secondly, anarchistic alternatives need not ensure optimal allocations to defeat their statist competitors; indeed, it may only be a matter of exceeding the state's rather poor provision of public goods.

Most of the arguments attempting to justify the state in terms of its role in the provision of public goods depend further upon a false private/public dichotomy, flowing from individualism, in which the private is delivered by individuals or individual firms and the public is delivered by the state. In between, however, lie many social groupings: clubs, communities, unions, societies, clans, tribes and so on (Buchanan, 1965; Pauley, 1967; McGuire, 1974). Such groups, too, can deliver social goods of a broadly public sort.

As the modern state developed more or less at the time of the rise of individualism in its exuberant modern forms, it is unremarkable that there is a heavy individualistic setting presumed in most arguments to the state. A central group of these arguments comprise variations upon 'prisoners' dilemma' situations, including therewith the 'tragedy of the commons' (Hardin, 1982; cf. Taylor, 1987). These arguments take the following broad form. Individuals operating on their own, in certain prearranged (game-theoretical) settings which involve but limited relations to other individuals also operating independently, will sometimes make seriously sub-optimal decisions or follow sub-optimal practices – unless brought into line by an outside influence, too swiftly presumed to be a surrogate of the state. Even on their own ground these arguments are inconclusive (as Taylor, 1982 shows).

It should be evident, even without going into any details of these important arguments, that the state is neither necessary nor sufficient for resolution of the problems that issue from independent individual operations and from individual competition. It is not sufficient because tragedies of the commons (such as the overexploitation of commons' resources by competing fishermen, farmers or firms) can proceed apace in the presence of the state, and may even be encouraged through state activity. It is not necessary because the relations of interdependence among individuals in dilemma or

tragedy situations can be exposed, and restored, in a variety of ways into which the state (possibly of no help) does not enter – for example, by establishing communication linkages, by social activity, conciliation and arbitration through engaged organizations, and so on. (Commonly, such relations are, in any case, evident in analogous real-life situations before the state becomes involved, or can be got involved.) That also shows how anarchism can resolve such dilemmas as need to be resolved in the absence of the state: namely, by having alternative arrangements, structure and organization in place which will serve instead.

One of the major deceits of modern political theory lies concealed in the persistent theme that the state, with a centralized monopoly on coercion, is necessary in order to ensure adequate public goods, including public order. For the most that appears required, the most that arguments would deliver, are specific organizations that look after specific kinds of goods, those necessary for this or that. There is no inherent reason why societies should not institute and regulate specialized bodies co-ordinated among themselves (by negotiations or, failing that, by recognized arbitrators) to ensure the adequate maintenance or production of various types of public goods, including control of damaging crime. Each such institution could gain community standing from its support base, for instance through achieving democratically generated recognition. Such an institution would aim to secure execution of its recommendations and decisions by sanctions and like admissible means, and in doing this it could mobilize in co-operation with other recognized institutions (Burnheim, 1986, p. 221).

There are many examples of such bodies operating successfully internationally. Those for postal and communication arrangements were among Kropotkin's (1970) favourite examples (Baldwin, 1970), and much in the modern academic literature on international relations now confirms the rich opportunities for 'cooperation under anarchy' (Oye, 1986). Another example considered by Burnheim (1986, p. 221) concerns the case of international sport. As he remarks, each major sport has its international body that regulates a variety of matters, ranging from the rules of the game to the administration of competitions. While such bodies are, of course, open to schisms and rivalries, these are seldom a major problem. Moreover their organization generally succeeds despite the fact that they have few sanctions to ensure compliance other than, for instance, excluding competitors from participation in the events they organize.

An anarchism viable for other than small communities appears to presuppose some such alternative organizational and social arrangements. If such a system is to persist, then its prospects are exceedingly poor if it is nothing more than a do-nothing set of arrangements spontaneously arising out of a revolution. But the state, as it grows, tends to undermine or eliminate such alternative arrangements. Correspondingly, people come more and more to expect the government to do what they might formerly have done, or have banded together to do, themselves. The state again proceeds, like other persistent systems and ecosystems, to establish conditions for its own survival: to become needed for social and even for individual activities and functions.

Core state functions: public order and defence

Now that the state is established, many of these social substitutes are under threat of withdrawal. Under ideological pressure from economic rationalism, pliant states have

been attempting to corporatize, privatize, or relinquish more and more of what had become regarded as necessary state functions, including some necessary to meeting basic health and shelter needs of citizens. But curiously, given the magic capabilities of the market, a few core state functions remain sacrosanct, such as taxation and money supply, defence and public order. While it is not particularly difficult to see how financial organization could devolve from state control (as historically), to social, community or private management, the issues of public order, property security and defence are regarded as essentially state functions; these are the functions of leaner minimal states, particularly recalcitrant to state excision. It was not always so (state police forces are a recent retrograde development), and it need not be so.

Another apparently powerful argument for the state, deriving from similar (mixed game- and choice-theoretical) sources, asserts that the state is required for these essential functions, for instance in order to control and to limit such social evils as crime and corruption. Observe, however, that it is not supposed these features of life are eliminated under the state; so questions arise about tolerable levels, cost–benefit ratios of varying levels of controls (down to the point of any controls at all) and so on. Observe again that the typical state, so far from limiting corruption and crime, is itself a major source of them. The state structure, by virtue of its power, expanse and character, induces much of the evil it is supposed to remove, such as crime.

There are several different reasons for this. For one, the state tends to become the guardian of a partisan morality and tries to prosecute what, outside a 'moral minority', are not offences at all but are instead victimless 'crimes'; thus arise a range of medical, sexual and drug 'offences'. For another, the state acts to protect its questionable monopolies: whence a range of banking, gambling, gaming and other offences. For yet another, the state supports social outcomes involving gross inequalities and privatization of wealth and resources: whence property crime.

Anarchists all agree that the major background source of these crimes – the state and its legion of 'law and order' officers – should be removed. They differ over what, if anything, replaces this extensive apparatus. Different types of anarchism are bound to offer different suggestions. Under communist forms, where an extensive institution of private property vanishes, property crimes will therewith disappear also; under individualistic forms, which sanction unlimited accumulation of property, some procedures for safeguarding property will need to be provided. Again, however, there are many and much less demanding ways of achieving the requisite protection of property than a resort to the state. One is that which effectively operates in many places that also waste their finances paying for ineffectual police protection: namely, insurance. Another is social, neighbourhood or community security.

As with security of property, so with other kinds of security, including territorial defence: different types of anarchism will propose and experiment with different compatible forms. Social and individualistic types will both operate defence through institutional arrangements: social types through functional bodies geared just to defence of relevant territory; individual types through a set of defence firms. Each sort of arrangement allows for various kinds and levels of defence (individualistic types depending upon what is purchased). In particular, social arrangements allow for social defence, a kind that is stable, highly compatible with gentler anarchism, and invulnerable to the severe political problems generated by standing armies (Sharp, 1990).

There is really no practical alternative

This is more an excuse for the state than a justification of it, of course. Advocates of the state nonetheless rely upon it heavily. Anarchism, they insist, has not worked in practice; it is, they infer, therefore unworkable. Neither is true. Before the modern era of states, it seemed to work well enough in some places, for instance in parts of the Americas and of the Pacific. Since the modern advent of states, it has been afforded but little opportunity to work at the national level, but it remains strikingly operative at the transnational level (Luard, 1979, p. 163).

According to a condescending pragmatic argument, simple primitive societies may have been able to struggle along without state structure or organization, but it is entirely out of the question for the practical operation for modern industrial societies. No recent anarchist societies have worked. A short response is again that but few have had an opportunity to succeed. There is extraordinarily little room for social experiment in modern state-dominated societies. Moreover, where anarchist societies have had some chance to flourish (as, briefly, in Spain before they were suppressed), some of them appear to have functioned moderately well.

At the international level, anarchy has operated for many generations. The arrangements *work*: in this sense they are successful, though hardly ideal. The international order is anarchistic, because there is no coercive government or authoritative political body with authority backed by enforcing power. International order is instead a prime example of anarchy. (While it is not a wonderful example, neither are many states terrific examples of archy.) It affords a conspicuous standing counterexample to stock arguments, like that of Hobbes, to some sort of well-ordering authority, such as the state (Oye, 1986).

Granted, international order leaves much to be desired. There are, accordingly, repeated calls for new world orders of one sort or another. But it has been persuasively argued (through a sort of top-down argument against states) that international order is as bad as it is because of the power and intransigence of states. The standard recommendation for an improved world order is through stronger international institutions. But an alternative recommendation, which would follow equally well from the diagnosis of the problem of world order, is an anarchist prescription calling for the erosion of states and diminution of state sovereignty.

As for real testing in practice, there is now no experimental space outside states. There used to be some room in the world for sizeable political experimentation, for testing different arrangements. We are now locked into large, overpopulated states with little room to move, let alone to experiment without states. There is, however, space *within* more liberal states for limited experimentation, and there is increasing scope for simulation and modelling as computer power and versatility grow. Most of the experimentation has been with small commune arrangements. What practice has shown – about all it has shown, negatively – is that *communistic* arrangements do not tend to work well for long with present humans, unless they are committed to a strong ideology. Various other sorts of arrangements can work well enough, given opportunities (as the well-established commune movement in Australia demonstrates).

'With the state removed', it is said, 'the system has no ultimate guarantor'. So it used to be said in favour of God. But who guarantees the guarantor? A state may underwrite

a social insurance scheme or a bank: but a state itself can fail, despite support of other states, despite states all the way down. There is no ultimate guarantor.

There is the further matter of the character of the guarantor. In theology, a further, illicit stipulation serves to ensure that God has the right features. In the case of the state, nothing guarantees that an 'ultimate guarantor' is not (rather like most states) corrupt, unfair, heavy-handed and incompetent. If in social relations a guarantee cannot be obtained without coercive authoritarianism, it is unlikely that a satisfactory one will be obtained with it. So even if an ultimate guarantee was needed, none of satisfactory character could be guaranteed.

Lesser assurances without the state can nonetheless be offered. A bank's books can be opened to public scrutiny and assessment, so that it can be seen that it is trading in a responsible and viable fashion. It is better that a person's healthy state be assured by observation that the person is functioning well than by intrusive interventions, treating the person as a closed system and relying on a doctor's guarantee of the person's health. So too with the social structures the state purports to guarantee.

Although there is a rich variety of anarchistic end-states (virtually uninstantiated possibilities), there are common organizational and structural features. Such cluster features are what hold the plurality together. These include non-coercive versions of those arrangements essential to a functioning society: for instance, broad features of arrangements for production and distribution, for arbitration and reconciliation and so on. Though there are many different strands that can be interwoven through the pluralistic out-fall from the basic characterization of anarchism, there are some broad tendencies common to virtually all anarchistic arrangements. These include:

- Reliance on self-regulatory methods of organization that require little or no intervention, as opposed to highly regulated procedures, perhaps tending towards centralism or paternalism. (This is one reason why markets are often favoured, but analogues of centralized control and coercive legal systems are rarely considered except in diluted forms.)
- Emphasis on voluntary methods, in place of imposed methods. (Coercive methods are, of course, excluded by virtue of basic characterization; de facto power may remain, of course, but it will be without justification.)
- Favouring of decentralization and deconcentration, rather than centralized or concentrated structures. (That does not imply there can be no downward relations: of course under federal arrangements there will be, and natural sideways relations as well, amounting to a full control system.)
- Discouragement of empowerment, encouragement of depowerment, with opposition to oppression and domination as a corollary.

But although each type of anarchist society will have such organizational features, they will differ in detail. A main distributional feature of a simple communist society may comprise a common storehouse from which members take according to need, whereas in a simple individualist society distribution will typically proceed through some sort of market exchange. More generally, different types of anarchism will offer different economic theories. Those with stronger individualistic component will tend to rely not merely upon market or allied exchange arrangements, but upon capitalistic

organization; thus anarcho-capitalisms, logical end-points when libertarianism and economic rationalism are really driven to state minimalization. These types of anarchism, whose small home base is the USA, propose several, often ingenious uses of private and market means to substitute for social and state functions (Friedman, 1973; Rothbard, 1977). But they provide no satisfactory resolution of ubiquitous market failure, which becomes even more widespread and severe without the state, and accordingly they remain unacceptable for environmental and other progressive social movements (Dryzek, 1987, p. 86). The types of anarchism favoured here avoid these fatal flaws by striking an intermediate route: regulated markets without capitalism.

How is such complex organization to be achieved without a state? Does not such organization and government require a state? To remove that familiar assumption and associated blockages –encouraged by too much life under states and too little experience of alternatives – take a wider look around. Look at how many activities and procedures are organized without states or any essential participation of states: by voluntary arrangements. Prominent examples are, again, sporting organizations, churches, labour unions and business corporations of various sorts. In short, organization can be accomplished through a range of appropriate institutions.

Such examples also provide the appropriate key to how more extensive organization can be achieved in the absence of the state: namely, through appropriate institutions. The state dissolves into functioning components, a set of appropriate institutions, and at bottom into its relevant minimization. It fragments into compartments, in two interconnected ways: into regional parts and into capacities, or functional parts.

There are other valuable clues to stateless reorganization. What happens within the more self-regulating state can also happen without it. As Gramsci emphasized,

> the ability to govern without overt coercion depends largely on the ability of those in power to exploit systems of belief that the larger population shares. The nature of that system of belief is to some extent determinable by policy makers, since in the modern state they possess a significant ability to propagandize for their view. Yet . . . (Gramsci, 1971, p. 63)

Recent empirical investigations tend to yield allied results. People tend to follow rules and obey laws they regard as substantively moral or otherwise satisfactory and procedurally fair (Tyler, 1990, p.178). There are important messages here for anarchistic organization, for arrangements without coercion, overt or otherwise. Anarchistic rules will try to go with the prevailing flow, and will only vary (as over vindictive punishment, which still remains popular) where an evidently satisfactory justification can be given. More generally, smarter anarchistic arrangements will aim to include desirable self-regulating systems, such as fair small-scale markets.

As there are too many alternatives in the pluralistic cluster to examine all of them, let us consider only some with preferred features. Anarchistic societies of any complexity, including cities, will typically consist of a network of decentralized organizations, or of federations of these. Most organizations will thus be regional, but beyond that set up according to issue, role or function. So they will conform to an *eco-regional functionalism* (a mixture of political functionalism with ecological bio-regionalism; on which see Mitrany, 1975 and Sale, 1980, respectively). Many of the stock features of decentralized political functionalism will accordingly recur: separation of powers, tailoring

of administration to needs, and so on. The organizations will furthermore be non-coercive; no individual or group will be forced to join. Typically they will be voluntary arrangements. A critical question is how these organizations substituting for the operation of state and its bureaucracies are to be controlled, regulated and so on. In much-favoured democratic structures, such as electoral bureaucracies, control is usually weak and remarkably indirect. A populace weakly selects a central parliament, which through other bureaucratic bodies exercises some control of state organizations. A genuine anarchism is obliged to dissolve or provide substitutes for central parliaments. It has an obvious option, namely direct democratic control of state-substituting organizations (such as replacements for present departments of local, regional and federal governments).

A simple way of achieving this is through sortition. There the membership of the governing component of each organization is chosen randomly from those qualified of the regional community who volunteer to be on it. In some cases volunteers may require accessible qualifications, such as having served before at a lower local or federal level. ('Levels', note, which stack up in flat-topped pyramidal arrays, do not imply any vicious hierarchy.) Furthermore, some volunteers might be disqualified on the basis of their past record. Where the community decides that certain categories of people (disabled, minorities, and so forth) should be represented, then it is a matter of arranging random selection of the required fraction of group numbers from these categories. This style of statistical democracy dates back at least to original democracies of Greek city-states where public officials were sometimes selected by lot (it is discussed under democracy in Aristotle's *Politics*). Nowadays it is called 'demarchy' (Burnheim, 1985, from whom main details of administrative arrangements can be drawn), a term with unfortunate prior meanings. Here in its anarchistic form it will be alluded to under the neologism 'demanarchy'.

Such demanarchy has the immediate virtue of removing a most expensive duplication: namely, between elected government ministers and their appointed counterparts in the civil service (between the Chancellor of the Exchequer and Permanent Secretary of Treasury, for example). Indeed, the whole charade of central parliamentary government, ministers and hordes of minders, governments and replicating opposition teams, is duly removed – inevitably under non-centralization. Such top-down parliamentary centres are eliminated. Insofar as anything replaces them, it is the dispersed community, having no centre, which is linked directly to functional organization.

Gone or seriously reduced with the demise of the centre are several stock political worries, directed against anarchism, such as those of coup, takeover, insurrection or invasion. These usually involve capturing the centre and its command structure, no longer there to capture; there is no command or control structure that could be taken by an invader or through internal insurrection. Community defence is thereby rendered much easier. The stock problem of who controls the controllers is also largely removed, partly because control is so diffused and partly because a main controller is the federated communities (which is one of the advantages of more direct democracy).

Appropriate functional institutions take care, then, of the day-to-day running of community affairs, of standard administration. But what of major policy, big-issue decisions, resolution of conflict, changes of political direction or structure? Where

necessary these can be accomplished from the bottom, through referenda, propositions, and the like (with public assessment organized through a suitably independent electoral college), rather than in present top-down, inflexible fashion. (Some of these methods, of which there is worthwhile experience in parts of Europe, are sketchily investigated in Wolff, 1970; with recent rapid improvements in communicational technology, such participatory methods can be much sophisticated, on which see McLean, 1989.)

The outline offered invites many questions and criticisms. How is such a stateless structure is to be financed without coercive mechanisms available? Observe that unless the target is being pursued for other reasons (such as criminal or political activities), coercive means are very rarely resorted to in order to obtain revenue payments from wealthier corporations, firms or individuals – from where in a more equitable community much of the funding would derive (by contrast with most present states). Note, too, that very much less public revenue would be required to support anarchistic systems, because several most expensive, most wasteful and least productive components of state have been excised. These include the whole apparatus of central government and electoral politics and the associated system of coercion (standard military forces and defence establishment, espionage framework, and police forces, prison establishment and expensive adversarial courts).

Nonetheless there remain many institutions to finance, including smaller substitutes for some of the abolished structures (such as social defence arrangements). There are several parts to a satisfactory answer as to how to finance these institutions.

- Many institutions can be largely or entirely self-financing through fair user-pays principles or because (like customs and import organizations) they collect revenue. Reasonable returns taken can be channelled to an independent revenue office with no outside spending or redistribution powers.
- Much, if not all, further social revenue could be raised through resources taxation (adequate royalties and the like), through rental taxes on property or leases, through gift and gains taxes and through auctions (of goods that would previously have been inherited). How this would work depends upon community arrangements.

Consider, for instance, anarchistic arrangements where that most problematic item, private property, has not been instituted or has been weakened or abolished (as again under main proposals of European anarchism, by contrast with North American forms). After all, full private property, like the state, manages to stand, without satisfactory justification (Carter, 1989, p. 126). While small items may be held, valuable durables – roughly, any durable worth stealing for re-sale in present systems – will be rented instead of bought. Leasehold systems can be operated very like private property (as the land system in the Australian Capital Territory reveals), facilitating market operations; but they offer significantly better environmental controls, they enable the social component of generated wealth to be reflected through a rental charge, they can be of finite term and of such a form as to exclude excessive accumulation and transfer by inheritance. In place of the customary 'land titles office' a 'durables office' with subdivisions for types of durables would be instituted, with each durable being indelibly marked or described. (Here as with referenda, modern computing facilities remove many previous

obstacles to such developments: anarchist organization can move with newer technologies.)

Leasehold arrangements are readily applied to prevent the accumulation of scarce property resources, such as urban land, which is a major feature of capitalism. Leases of scarce commodities can be allocated according to need and ability to use, not merely through a historically rooted market distribution, as with private property. It is private property, not a market-extended system of distribution, that is really distinctive of capitalism. It is that which not only provides a place to park and increase capital but also enables transmission of accumulated wealth (within a family or dynasty, for example) and control of the means of production. It is that which a social anarchism opposes and would dissolve.

A frequent criticism, intended to demolish not just social anarchism but all types, is that no form of anarchism has developed an adequate economic theory. Now, a cynic might well observe in response that no strand of capitalism or of socialism has, either. But theories there no doubt are, in certain narrow reaches, in abundance.

Anarchism, it is true, commonly assumes the benefits of autonomous market operations. Indeed 'the individualistic ideal is one of personal sovereignty in the market place'; but then 'is not the state an indispensable prerequisite for a successfully functioning economy?' (Miller, 1984, p. 169). There are two parts to a response. First, markets functioned before states and function outside states, for example internationally. States are inessential. Second, whatever institutions are required for the operation of markets can be supplied regionally under anarchistic fragmentation of the state. Problems remain only for individualistic forms, which have to locate (available) privatized replacements for social structures.

How much background structure do markets depend upon, and how much of it might presuppose the apparatus of a state? A market has a place of transactions (which can be common or waste ground) and a supply of goods or services, to be exchanged there for other goods or services (barter) or for currency (in a money economy). Buyers and sellers enter the market to effect exchanges. No doubt there are certain things presupposed by markets: at least limited entitlement (leasehold or property rights), so a seller is entitled to transfer to a new user what is offered for sale; contractual arrangements; and, in a money economy, some recognized currency. Also normally presumed, where markets operate, are certain levels of security against invasion, assault and theft; but these are normal expectations for much of social life, even for conducting a conversation. As for the rest, except perhaps for currency, it is a mere pretence that a state is required for their assurance: customs or tribal arrangements will ensure both property in transportable goods and recognition of verbal contracts or undertakings; modern stateless organization can also. An appropriate currency too can develop in the absence of states, as exemplified in the shell currencies of Melanesia and the bank notes of early America. Bank notes are not fully public goods; for a bank that can profit from their circulation or issue has an incentive to supply them (Hayek, 1976). And banks themselves do not require a sponsoring state, even if sometimes that helps, as in bailing them out.

It is also said, against anarchism, that 'a central agency seems necessary to maintain any society-wide distribution of resources' (Miller, 1984, p. 172). *Which* resources? Where markets operate, many resources will be distributed without any role for a central agency, which would often serve as a serious blockage.

What distribution? What is intended in the charge is surely 'a *just* distribution of resources', so that the blatant inequalities now observed in even the wealthiest societies are mitigated and the conditions of the worst-off are alleviated. But that is simply drawing upon experience of capitalism: anarchism would not start out from such an invidious position. Furthermore, it is again assumed that there are only two ways of righting such (capitalistic) maldistribution: through purely private means or by a centralized state means. So presented, it represents a false dichotomy – private or state. In that dichotomy, society is either equated with the state or else drops out, and all other public means disappear.

For socially inclined anarchists there is no disputing that there need to be safety nets in place for the poor and disadvantaged. What is in question is how those nets are placed and administered, and whether the state has an essential role or whether it is instead an inefficient and officious nuisance. There are many stateless alternatives. One option canvassed redistributes some funds collected from resource sales and leases. Another option is a socially instituted tithing system, where members of society are offered a choice of schemes to contribute to, and are expected to contribute to these, and encouraged to make their contribution open to public inspection. Those who tried to evade contribution and closed their books would be subject to a range of social pressures (Taylor, 1982).

It is further claimed that while smaller anarchist communities (especially those of a collectivistic or communistic bent) may be able to resolve inequitable distribution problems, 'there are major difficulties' in attempting to realize some distributive ideal '*between* communities' (Miller, 1984, p. 173). There are major difficulties, now. But that is scarcely an argument for a central authority. Some redistribution and a small transfer of wealth already occurs, deliberately undertaken through non-state organizations, without any central authority involvement. There is no decisive evidence that central authorities help facilitate global redistributions; it may well be, as many suspect, that they make matters worse.

Roads to Anarchy: Old Routes and New Inputs

Anarchism, even though theoretically viable, is undoubtedly hard to obtain, for states are now extremely well entrenched, and form a club of their own. Nonetheless, opportunities arise for overthrowing them. Periods of crises, in particular, afford opportunities – which should be seized, as they may not arise often. A well-prepared anarchist group will organize, then, when the moment arrives, pounce. But such opportunities and risky revolutionary routes are only one way to change. As there is a plurality of anarchistic positions and end-states, so too there is a plurality of routes to anarchism, but not in any directly corresponding way. Figure 10.2 provides a survey of the larger possibility field.

Pluralistic anarchism is not obliged to dismiss political and constitutional routes to anarchism or to anarchist objectives, including therein more congenial state arrangements. A state may be, or become, more congenial as regards how decently it treats its

Ways	Evolutionary	Revolutionary
Intra-state: within state setting	1. Typically slow or incremental operations through received political channels	2. Typically rapid operations circuiting established channels: coups, insurrections, etc.
Extra-state	3. Operations establishing alternative organizations bypassing or substituting for statist arrangements	4. Operations comprising external inference or intervention: by negotiation, military means, sanctions, examples, etc.

Figure 10.2 Diagram of ways to change

peoples, environments and neighbours: it may also be more benign in that it does not significantly impede anarchist political activity or render paths significantly more difficult. Overlapping that, more benign, less domineering states may leave substantial room for significant anarchist practice, both in lifestyle and in building organizational structures and (as it were) alternatives to archist arrangements (such as 'people's banks' and 'time stores'). What are in important respects anarchist communities can operate within, and be modelled within, less intrusive states. (The limits to this quasi-anarchism, elaborated in Nozick, 1974, are explained in Sylvan and Bennett, 1990.) States that better meet anarchist (and green-socialist) criteria for benignness can conveniently be distinguished as more 'sympatico' states. A committed anarchist can quite well also be committed, as an intermediate goal among others, to achieving more sympatico states. That, in turn, may involve political activity, conventional or unconventional.

Main anarchist routes to change lie, however, outside conventional politics. They comprise, firstly, *substitution* for the operations and functions of the state, through alternative arrangements set up within the territory determined by the state (e.g. the succession model in Routley and Routley, 1982; the utopian framework of Nozick, 1974). Except in utopian circumstances, successful substitution is bound to lead to confrontation with the state. Other main routes lead more directly to confrontation and to revolutionary means, routes through *direct action*, against state activities and practices.

Goal-directed change through forms of direct action – in significant respects a contemporary upgrading of former anarchist ideas of actions through deeds and propaganda by deeds – requires both some planning and a movement to carry through

planned operations. Planning and organization of anarchist action is certainly not excluded, in revolutionary operation or elsewhere. The rival 'spontaneity' view, still fashionable in many anarchist circles, depends upon the unpromising idea of directly igniting the radically dissatisfied masses (and is ideologically underpinned by a confused picture of freedom). Furthermore, it issues in bad decision making, choice deliberately uninformed by available information, for instance as to more desirable ends and means. Naturally, however, planning is not and cannot be total, and it should not be too inflexible.

Unfortunately it is hard to find, anywhere, even in the worst of states, much anarchist planning, and – worse – there is little visible evidence of constructive anarchist movements anymore; what gets exhibited in ongoing crises of states is degenerate anarchism. There is undoubtedly much scope for anarchism proper to become involved in those crisis situations, for instance by influencing and organizing active dissatisfied groups, and for it to flourish.

What are also now conspicuously exhibited are extensive movements, making considerable use of direct action techniques, substantial parts of which have heavy (but often underappreciated) anarchist commitments: notably environmental and peace movements, which are highly compatible with social anarchism (Martin, 1980; Routley and Routley, 1980; Dobson, 1990). A main contemporary chance for social anarchism lies in mobilizing these movements, activating their latent anarchism. That is the great hope for the future (Callenbach, 1982).

References

Baldwin, R. N., ed.: *Kropotkin's Revolutionary Pamphlets* (New York: Dover, 1970).

Bookchin, M.: *Remaking Society* (Boston, Mass.: South End Press, 1989).

Buchanan, J. M.: 'An economic theory of clubs', *Economica*, 32 (1965), 1–14.

Burnheim, J.: *Is Democracy Possible?* (Cambridge: Polity Press, 1985).

—: 'Democracy, nation states and the world system', *New Forms of Democracy*, ed. D. Held and C. Pollitt (London: Sage, 1986), pp. 218–39.

Callenbach, E.: *Ecotopia Emerging* (New York: Bantam New Age, 1982).

Carter, A.: *The Philosophical Foundations of Property Rights* (Brighton: Harvester Wheatsheaf, 1989).

Clark, J.: *The Anarchist Movement* (Montreal: Black Rose Books, 1984).

Dahl, R.: *Democracy and Its Critics* (New Haven, Conn.: Yale University Press, 1989).

Dobson, A.: *Green Political Thought* (London: Unwin Hyman, 1990).

Dryzek, J. S.: *Rational Ecology* (Oxford: Blackwell, 1987).

Dunn, J. M.: 'Relevance logic and entailment', *Handbook of Philosophical Logic*, vol. 3, ed. D. Gabbay and D. Guenther (Dordrecht: Reidel, 1986), pp. 117–224.

Feyerabend, P.: *Against Method* (London: NLB, 1975).

Friedman, D.: *The Machinery of Freedom* (New York: Harper, 1973).

Gough, J. W.: *The Social Contract: A Critical Study of Its Development* (Oxford: Clarendon Press, 1936).

Gramsci, A.: 'The intellectuals' and 'The modern prison', in *Selections from the Prison Notebooks*, ed. Q. Hoare and G. N. Smith (New York: International Publishers, 1971).

Hardin, R.: *Collective Action* (Baltimore, Md.: Resources for the Future, 1982).

Hayek, F. A.: *Denationalization of Money* (London: Institute of Economic Affairs, 1976).
Held, D. and Pollitt, C.: *New Forms of Democracy* (London: Sage, 1986).
Holterman, T. and van Moorseveen, eds: *Law and Anarchism* (Montreal: Black Rose, 1984).
Lehning, A.: ‘Anarchism’, *Dictionary of the History of Ideas*, ed. P. P. Weiner (New York: Charles Scribner’s Sons, 1968), pp. 70–6.
Luard, E.: *Socialism without the State* (London: Macmillan, 1979).
Mannison, D. et al., eds: *Environmental Philosophy* (Canberra: Research School of Social Sciences, Australian National University, 1980).
Martin, B.: *Changing the Cogs* (Canberra: Friends of the Earth, 1980).
McGuire, M.: ‘Group segregation and optimal jurisdictions’, *Journal of Political Economy*, 82 (1974), 112–32.
McLean, I.: *Democracy and New Technology* (Cambridge: Polity Press, 1989).
Miller, D.: *Anarchism* (London: Dent, 1984).
Mitrany, D.: *The Functional Theory of Politics* (London: Martin Robertson, 1975).
Naess, A. et al.: *Democracy, Ideology and Objectivity* (Oslo: Oslo University Press, 1956).
Nozick, R.: *Anarchy, State and Utopia* (Oxford: Blackwell, 1974).
Oye, K., ed.: *Cooperation under Anarchy* (Princeton, NJ: Princeton University Press, 1986).
Pauley, M. V.: ‘Clubs, commonality and the core: an integration of game theory and the theory of public goods’, *Economica*, 35 (1967), 314–24.
Proudhon, P. J.: *Qu’est-ce-que la propriété?* [What is Property?] (Paris, 1840).
—: *General Idea of the Revolution in the Nineteenth Century*, trans J. B. Robinson (London: Freedom Press, 1923).
Rawls, J.: *A Theory of Justice* (Cambridge, Mass.: Harvard University Press, 1971).
Ritter, A.: *The Political Thought of Pierre-Joseph Proudhon* (Princeton, NJ: Princeton University Press, 1969).
—: *Anarchism: A Theoretical Analysis* (Cambridge: Cambridge University Press, 1980).
Rothbard, M. N.: *Power and Market – Government and the Economy* (Kansas City: Sheed Andrews and McMeel, 1977).
Routley, R. and Routley, V.: ‘Social theories, self-management and environmental problems’, in *Environmental Philosophy*, ed. D. Mannison et al. (Canberra: Research School of Social Sciences, Australian National University, 1980).
—: ‘The irrefutability of anarchism’, *Social Alternatives*, 2, 3 (1982), 21–9.
Sale, K.: *Human Scale* (New York: Coward, Cann & Geoghegan, 1980).
Sharp, G.: *Civilian-Based Defense* (Princeton, NJ: Princeton University Press, 1990).
Spretnak, C. and Capra, F.: *Green Politics* (Santa Fé, N. Mex.: Bear & Co., 1984; rev. edn, 1986).
Sylvan, R.: *Universal Purpose, Terrestrial Greenhouse and Biological Evolution*, Research Series in the Fashionable Philosophy No. 4 (Canberra: Research School of Social Sciences, Australian National University, 1990).
Sylvan, R. and Bennett, D.: *On Utopias, Tao and Deep Ecology*, Discussion Papers in Environmental Philosophy No. 19 (Canberra: Research School of Social Sciences, Australian National University, 1990).
Taylor, M. J.: *Community, Equality and Liberty* (Cambridge: Cambridge University Press, 1982).
—: *Anarchy and Cooperation* (London: Wiley, 1976); 2nd edn as *The Possibility of Cooperation* (Cambridge: Cambridge University Press, 1987).
Tyler, T. R.: *Why People Obey the Law* (New Haven, Conn.: Yale University Press, 1990).
Wolff, R. P.: *In Defense of Anarchism* (New York: Harper & Row, 1970).
Woodcock, G.: *Anarchism* (Harmondsworth: Penguin Books, 1962).

Anarchism since 1992

ROBERT SPARROW

Political transformations and technological developments have led to an upswing in the fortunes of political movements drawing inspiration from anarchism since the early 1990s and consequently to a resurgence of interest in the political philosophy of anarchism.

The decline in the popularity of Marxism subsequent to the collapse of the Soviet Union has left a vacuum on the left which has partially been filled by anarchism, which has to some extent become the default politics of radical dissent in English-speaking nations and much of Western Europe. This has been especially apparent in the 'anti-globalization' movement of the mid-to-late 1990s and early twenty-first century (Day, 2005).

An important development arising out of the anti-globalization movement has been the conscious attempt made therein to construct political coalitions across national borders and to undercut the historical hegemony of organizations and ideologies based in the wealthy Northern hemisphere. This has led to anarchists in the North looking to political movements in the impoverished South, in particular the Zapatistas and other indigenous movements, for political inspiration (Day, 2005).

Another development in the last decade is an emerging (partial) consensus on the appropriate forms of anarchist involvement in political campaigns, despite the absence of a deeper agreement amongst anarchists on their ultimate political goals. Anarchist involvement in social and political struggle has typically been co-ordinated via loose networks, often organized around internet websites or mailing lists, and involving multiple 'affinity groups' (Van de Donk, 2004; Day, 2005). It has also involved the development of 'social forums' as alternative public spaces for the development of radical views, and 'social centres' as geographical spaces which support political activism. Anarchists in Europe, the USA and Australasia have also developed practices for reclaiming public space for radical activity (Ferrell, 2001). All of these forms of political activity can be understood as stemming from a commitment to a political philosophy of 'direct action', whereby people work together to solve the problems they face themselves rather than relying on governments, or the coming of the 'revolution', to solve them. However, anarchists continue to struggle with the question of an appropriate organizational form which might allow them to promote specifically anarchist ideals, consolidate the lessons learned in particular political struggles, and sustain activity in periods between political campaigns.

The development of the World Wide Web has also had a significant impact both on the popularity of anarchist ideas and their theoretical elaboration. The decentralized nature of the internet and the fact that it is beyond the power of any state to regulate have led many critics to note important parallels with anarchist political ideas (Ludlow, 1999; 2001; Moglen, 1999). There has also been a resurgence of contemporary anarchist writing for the purpose of distribution via the Web. Moreover, the World Wide Web has allowed diverse groups to experiment with new forms of community and co-

operation in the absence of centralized political authority, and made possible novel practical demonstrations of the possibilities of organization through non-hierarchical distributed networks (Ludlow, 2001). In particular, the 'Open Source' movement in software design has shown how the voluntary co-operation of individuals on the basis of the free exchange of the results of that co-operation can create products that can outperform the design processes of large multinational corporations, in a limited domain at least. This movement has also led to the development of new forms of intellectual property, which are arguably anarchist in essence (Moglen, 1999).

Recent anarchism has also been influenced by the 'autonomous Marxism' of Hardt and Negri (Hardt and Negri, 2000; 2004) as well as by post-structuralism. Autonomous Marxism's rejection of Leninism, its extension of the concept of the working class, and its defence of the radical potential of resistance to wage-labour have conferred a new theoretical respectability on anarchism's traditional hostility towards vanguardist parties and orientation towards the 'lumpen proletariat' (Peacock, 2001; Holloway, 2002). Post-structuralism's insistence that all scientific, ethical or political claims necessarily involve the operations of power, its hostility to 'master narratives', and its emphasis on the shifting boundaries of identity and multiple possible bases of oppression all resonate with anarchism's distrust of all authority. The implications of post-structuralist ideas for anarchism have been taken up by a number of writers (May, 1994; Newman, 2001; Call, 2002; Day, 2005). 'Post-structuralist' anarchism involves a concerted attempt to divorce anarchism from its roots in the Enlightenment; the break required is sufficiently radical that at least one writer has begun to speak of 'post-anarchism' (Day, 2005). Whether such post-structuralist anarchism retains the revolutionary commitments of social and communist anarchism remains unclear.

Anarchist theory has also continued to develop as a result of arguments internal to the anarchist movement itself. There has been renewed debate between those who advocate a traditional class-based anarchist-communist or 'social anarchist' politics (Bookchin, 1996; Albert, 2000) and those who advocate a rejection of politics in favour of the attempt to establish new forms of life at the margins of the existing social order (Black, 1997; Zerzan, 2002). A distinct 'post-left' anarchist tendency has developed as a consequence of this debate (Black, 1997). A radical 'primitivist' anarchism has emerged out of environmental anarchism which rejects technological society in its entirety, including the domestication of animals, agriculture, the division of labour, and 'civilization' itself as essentially destructive and authoritarian (Zerzan, 2002). Both 'post-left' and 'primitivist' anarchism have contributed a challenging critique of the valorization of labour within the socialist tradition in which anarchism has its roots (Black, 1986). It is doubtful, however, whether they offer anything more than a corrective influence to labourist and scientistic tendencies within socialist traditions of radical thought; their radicalism seems more rhetorical than realizable.

The field of political activity has perhaps never been more open to anarchist ideas than it is today. The need for radical alternatives to a global political order that is threatening the very possibility of human life through its destruction of the global ecosytem has never been clearer. It remains to be seen whether anarchism can rise to the challenge.

References

Albert, M.: *Moving Forward: Program for a Participatory Economy* (London: AK Press, 2000).
Black, R.: 'The abolition of work', in *The Abolition of Work and Other Essays* (Port Townsend, Wash.: Loompanics Unlimited, 1986).
—: *Anarchy After Leftism* (Columbia, Mo.: Columbia Alternative Library Press, 1997).
Bookchin, M.: *Social Anarchism or Lifestyle Anarchism: An Unbridgeable Chasm* (San Francisco, Calif.: AK Press, 1996).
Call, L.: *Postmodern Anarchism* (Lanham, Md.: Lexington Books, 2002).
Day, R. J. F.: *Gramsci is Dead : Anarchist Currents in the Newest Social Movements* (London and Ann Arbor, Mich.: Pluto Press, 2005).
Ferrell, J.: *Tearing Down the Streets: Adventures in Urban Anarchy* (New York: Palgrave, 2001).
Hardt, M. and Negri, A.: *Empire* (Cambridge, Mass. and London: Harvard University Press, 2000).
—: *Multitude: War and Democracy in the Age of Empire* (New York: The Penguin Press, 2004).
Holloway, J.: *Change the World without Taking Power* (London: Pluto Press, 2002).
Ludlow, P., ed.: *High Noon on the Electronic Frontier* (Cambridge, Mass. and London: MIT Press, 1999).
—: ed.: *Crypto Anarchy, Cyberstates, and Pirate Utopias* (Cambridge, Mass. and London: MIT Press, 2001).
May, T.: *The Political Philosophy of Poststructuralist Anarchism* (University Park, Pa.: University of Pennsylvania Press, 1994).
Moglen, E.: 'Anarchism triumphant: free software and the death of copyright', *First Monday: Peer Reviewed Journal on the Internet*, 4, 8, (2 August), 1999.
Newman, S.: *From Bakunin to Lacan* (Lanham, Md.: Lexington Books, 2001).
Peacock, A.: *Two Hundred Pharaohs, Five Billion Slaves* (London: Ellipsis, 2001).
Van de Donk, W. et al., eds: *Cyberprotest: New Media, Citizens, and Social Movements* (London and New York: Routledge, 2004).
Zerzan, J.: 'Against technology', in *Running on Emptiness* (Los Angeles, Calif.: Feral House, 2002).

Further reading

Dark Star Collective, ed.: *Quiet Rumours: An Anarcha-Feminist Reader* (London: AK Press, 2002).
Edwards, P.: *Pathways to Anarchism* (Aldershot and Brookfield, Vt.: Ashgate, 1997).
Ehrlich, H. J., ed.: *Reinventing Anarchy, Again* (Edinburgh; San Francisco, Calif.: AK Press, 1996).
Forman, M.: *Nationalism and the International Labor Movement : The Idea of the Nation in Socialist and Anarchist Theory* (University Park, Pa.: Pennsylvania State University Press, 1998).
Gans, C.: *Philosophical Anarchism and Political Disobedience* (Cambridge and New York: Cambridge University Press, 1992).
Heider, U.: *Anarchism: Left, Right, and Green* (San Francisco, Calif.: City Lights Books, 1994).
Hoffman, J.: *Beyond the State: An Introductory Critique* (Cambridge: Polity Press, 1995).
Skirda, A.: *Facing the Enemy: A History of Anarchist Organization from Proudhon to May 1968*, trans. P. Sharkey (Edinburgh: AK Press, 2002).

Chapter 11

Conservatism

ANTHONY QUINTON

Preliminaries

The boundaries of an idea

Conservatism is the only body of right-wing opinion represented in the part of this *Companion* dedicated to ideologies. Further to the right of conservatism there are the ideologies of fascism, authoritarianism and elitism, as well as a number of political attitudes that are not articulate enough to amount to ideologies. I shall argue that the former are quite distinct from conservatism and that the latter are, at any rate, not identical with it.

This way of proceeding has two things to recommend it. In the first place it allows for a greater comprehensiveness of treatment. Second, it makes it possible to demarcate conservatism more precisely by distinguishing it from other bodies of opinion with which it is commonly confused. Since the late nineteenth century and the emergence of socialism as the politically effective ideology of the newly enfranchised proletariat, conservative parties have absorbed so many right-wing liberals in alliance against a common enemy, that at times the truly conservative element in them has been almost overwhelmed by liberal individualism.

The confusion of conservatism with the ideologies of the extreme right is more a matter of rhetoric, although it has some basis in political practice. Conservatives in a time of crisis have allied themselves with parties animated by other, more ferocious right-wing ideologies.

What I shall identify as conservatism is a long-lasting body of political doctrine which is seldom nowadays represented by a single party. It is, above all, the political doctrine of Burke. But it goes much further back in English history, at least to Hooker, and, in the world as a whole, perhaps to Aristotle. Since Burke it has taken the form of a continuous tradition, culminating for the time being in Oakeshott.

The central doctrines

This main tradition of conservative thought derives from three central doctrines, which are themselves connected. The first and most obvious of them is traditionalism, which

supports continuity in politics, the maintenance of existing institutions and practices, and is suspicious of change, particularly of large and sudden change, and above all of violent and systematic revolutionary change. At its most rudimentary this is simply a widespread human disposition, present to some extent in everyone, though by no means universally predominant, to love the familiar and to fear the unknown. Suspicion of change is not the same thing as rigid opposition to it. But, for the conservative, if there is to be change it should be gradual, with each step carefully considered, as though one were venturing on to ice.

The chief intellectual, rather than emotional, support for traditionalism is a sceptical view about political knowledge. Political wisdom for the conservative is embodied, first of all, in the inherited fabric of established laws and institutions. This is seen as the deposit of a great historical accumulation of small adjustments to the political order, made by experienced political practitioners, acting under the pressure of a clearly recognized need and in a cautious, prudent way. It follows that the management of public affairs is best remitted to those with extensive direct political experience and not to theorists with their privately fabricated abstract systems. What is needed for successful political practice is skill or know-how. Even less welcome to conservatives than abstract principles, such as doctrines of universally applicable natural or human rights, are utopias, systematic proposals for comprehensive social transformation.

Political scepticism in its turn rests on the third central doctrine of conservatism, the conception of human beings and society as being organically or internally related. Individual human beings are not fully formed, except in their basic biological aspect, independently of the social institutions and practices within which they grow up. There is, therefore, no universal human nature. People's needs and desires and expectations differ, from time to time and from place to place. Social institutions generally, and the state and its laws, in particular, should not be thought of as appliances, like a bicycle or a toothbrush, selected for an already formed purpose. Such an organic conception of the relations between individual and society does not have to take a Hegelian, metaphysical form. It does not claim that a socially undetermined individual is somehow logically inconceivable, although that could be argued for in contemporary terms on the grounds that language is essentially social and that it is language that makes human beings human, and not just primates that walk upright. It is enough that it is a matter of fact.

Since individual and society are organically, internally related, it follows that their activities are not susceptible of the kind of abstract theorization that is characteristic of the natural sciences. Just as there can be no literal science of poetic composition or friendship, there can be no literal science of politics from which a technology of statecraft can be derived.

The non-conservative right

Right-wing political doctrines that are different from conservatism, but are often confusedly run together with it, are of two kinds. First, there are some fully fledged ideologies, which have achieved a measure of intellectual articulation, and which are, if examined closely, really quite distinct from conservatism, at least in the traditional and central sense in which I have taken it. Second, there are some recurrent or persistent

right-wing political attitudes, not intellectually elaborated enough to count as ideologies, which are not identical with conservatism and not even an essential part of it, but are nevertheless often to be found among conservatives. The non-conservative ideologies are right-wing *alternatives* to conservatism, while the less articulate attitudes are, rather, possible *variants* of it.

Fascism is the right-wing ideology that, because of its dramatic and destructive role in the history of the twentieth century, first comes to mind. It is non-conservative in a number of obvious respects. It is radical, and even revolutionary, to start with, calling for a wholesale replacement of existing institutions and an immense enlargement of the functions of government. It has no respect whatever for customary law, for constitutions and, indeed, for the rule of law in general. The inspired leaders it calls for are self-taught political virtuosi, from the remote margins of ordinary political life. In Weber's terms, the fascist leader claims charismatic authority, where the authority of the conservative ruler is traditional.

Authoritarianism has been just as common a feature of the political experience of the twentieth century, if less conspicuous than the fascism to which it is sometimes allied, sometimes hostile. Perhaps the most usual form is military dictatorship, as with Primo de Rivera and Franco in Spain or Pilsudski and Jaruzelski in Poland. But civilians, such as Dollfuss and Salazar, have also ruled as authoritarians. Like fascism it endorses emergency measures, prescriptive rules which dispense with tradition. But it is not totalitarian. It does not see the penetration by the state of every aspect of human life as required for the preservation of order, which is its overriding political value. But it is not a form of conservatism either, because of its readiness to dispense with laws and constitutions.

Elitism, with its Platonic ancestry, is perhaps the oldest political ideology. It is non-conservative in respect of all three of conservatism's central doctrines. It does not take human beings and the societies they compose to be theoretically impenetrable. It contends that the best elite is an intellectual one, composed of those who are particularly qualified by abilities and training to understand the workings of society. It can accord respect to tradition, but not reverence, seeing tradition as the surviving residue of the work of past elites. Unlike most conservatives, the elitist attaches little importance to people's inherited position.

To the left of conservatism, but still of the right rather than the left, is classic, individualistic liberalism. Practically allied with conservatives against the common enemy, socialism, liberals of this kind have been continuously recruited to conservative parties since the late nineteenth century. Sometimes, nowadays, parties calling themselves conservative are dominated by liberal individualists. The leading twentieth-century exponent of classical liberalism, Hayek, ends his major treatise, *The Constitution of Liberty* (1960), with a chapter called, without irony, 'Why I am not a conservative'.

Classic liberals favour change, admittedly in the economy and society at large, rather than the state, at least where liberal institutions prevail. They favour theory, above all classical economics, with its apparent implication that an unfettered market will lead to the greatest possible satisfaction of human needs and desires and the most productive use of resources. They are more suspicious than conservatives of all but the most minimal government.

Finally, there are the inarticulate political attitudes, which, although often associated with conservatism, are no essential part of it. A conservative is not a reactionary, though he may be. But only to a limited extent. If the reaction envisaged is a large one, to a long-past state of affairs, it is unconservatively revolutionary, even if only negatively so.

A conservative does not have to be an immobilist, an unwavering and absolute opponent of change, although he may be, again within certain limits. Conservatives accept change as required by changing circumstances, but they insist that, to minimize its dangers, it should be continuous and gradual.

A conservative will not be an absolutist, except to the extent that the tradition of his society is an absolute one. But absolutism, the idea that the sovereign is free from all constraints of the law, perhaps by reason of a supposed divine right to rule, is at odds with conservative respect for the impersonal wisdom embodied in laws and the constitution.

Conservatism as an ideology

There is a difficulty about treating conservatism as an ideology which should be confronted as soon as possible. Conservatism is distrustful of, or hostile to, theory. An ideology is a kind of theory. Therefore conservatism would not wish to see itself, or to be seen, as an ideology. There can be no doubt that an ideology is, or essentially comprises, a theory. That is what differentiates it from mere political prescriptions, convictions or opinions, even from political principles and from systematic political ideals or utopias. An ideology derives political prescriptions or principles, even sometimes utopias, from theories about human nature and society.

Central to conservatism, I have said, is an organic theory of human nature and society which implies a sceptical theory of abstractly theoretical political knowledge. These are taken to imply, in their turn, attachment to tradition, reluctance to change and a preference for politically experienced rulers. The crucial question is: does the theory which conservatism rejects self-destructively include the kind of theory which, in its developed form as something more than an emotional disposition, it itself embodies?

The conservative answer is that conservatism does not depend on a substantive theory about universal human nature, issuing in universal political principles, such as lists of the rights of man. No doubt it has been confused, both by supporters and opponents, as such a theory of which, for example, a monarch, a hereditary aristocracy of landowners and an established church are ingredients. But the desirability of such institutions for a conservative is relative to the circumstances of a particular time and place, one in which they are historically established. (In modern Britain, for instance, they are largely, if not wholly, formal and vestigial.) As an ideology conservatism is, then, procedural or methodological rather than substantive. It prescribes no principles or ideals or institutions universally and so falls outside the scope of its own rejection of abstract theory.

The notion that conservatism is not an ideology, but only a disposition, or, more reductively, an expression of the self-interest of those who benefit from the status quo, is also assisted by its lack of an appropriately theoretical classic text. Liberalism has Locke's *Treatises of Government* and Mill's *On Liberty*; socialism has *The Communist*

Manifesto; elitism has Plato's *Republic*. The nearest thing to a classic text it possesses is Burke's *Reflections on the Revolution in France*. But that, like all Burke's mature political writing, is an occasional work, evoked by and principally concerned with the particular event mentioned in its title. The great bulk of it is taken up with polemic, expressed with a measure of rhetorical excess, about attitudes to that event. The ideology has to be separated out from the highly concrete matter in which it is immersed. But it is unquestionably to be found there.

Historical Survey

The prehistory of conservatism

Plato and Aristotle, from whom all later political thought derives, were both men of the right. In the Greece of their time the kind of revolutionary turmoil that evokes explicit conservative thinking as a reaction was vehement and uninterrupted, although to be extinguished by the authoritarian imperial order imposed by Aristotle's pupil, Alexander the Great. Plato was not, however, a conservative but an elitist, who devised a utopia to arrest all change. In his *Republic* there is no place for law as conservatives understand it. The state was to be run by a non-hereditary caste of intellectually gifted experts. Nor did he confine his proposals to a particular community, but went to the tyrant of Syracuse in an attempt to export them there.

Aristotle, on the other hand, if not exactly conservative, was certainly of a conservative temperament. He favoured the rule of impersonal laws over the rule of individual men and saw constitutional states as healthy, and despotic states as perverted. Always concerned with the practically possible, he was critical of Plato's utopia, especially in its elimination for the ruling class of the great traditional institutions of the family and private property. He believed that the best available constitution for a community depended on its nature and circumstances. He intimated an organic theory of human nature and society in his fundamental thesis that man is a political animal, who can realize his human potential only in a state. All the main conservative notes are sounded in his work, even if, under Plato's influence, he still saw it as the business of the political philosopher to outline an ideal state. His own outline remained amorphous and unfinished.

Cicero was a Stoic and a believer in natural law and the essential equality of men in all times and places. But he was conservative in practice, upholding the traditions of the Roman republic against the new imperial authoritarianism of Augustus, who had him killed.

In the Middle Ages, after the translation of Aristotle's *Politics* into Latin around 1260, the Christian political theory of passive obedience was theoretically articulated by Thomas Aquinas. The principal theme of political reflection in this period was that of the proper relation between church and state. Orthodox conformism saw the state as a divinely ordained remedy for human sinfulness, in need of guidance and endorsement from the church. The political secularism that was to emerge in the Renaissance was foreshadowed in the theories of the state as means for the satisfaction of earthly human ends by Occam and Monsiglio of Padua.

From the Reformation to Burke

There had been palace revolutions in medieval England and brief, popular risings, which governments firmly repressed. But the first major challenge to the established order came in the sixteenth century with the Protestant Reformation. The position of subjects whose faith differed from that of their rulers led to warfare in Europe – the French Wars of Religion in the late sixteenth century and the Thirty Years War in Germany in the early seventeenth. In England there was violence but no open warfare.

The opposing sides justified themselves either by appealing to a supposed divine right of kings, by which religion was subject to the state, or to some more or less theocratic principles such as those, for example, advanced by Calvin. The Elizabethan church settlement established the royal supremacy over the church and the exclusion of the Pope, but retained much of Catholic ritual and the institution of the episcopacy. Hooker's *The Laws of Ecclesiastical Policy* was produced as a defence of that settlement, but turned out to be much more, perhaps the first truly conservative theory. He rejected both the competing absolutisms of the age: the divine right theory and the Puritan belief that all truth is to be found in the Bible, which says nothing of bishops and royal supremacy. Against the former he argues that the monarch must uphold the customary law; against the latter that circumstances have fundamentally changed. The idea of the historically developed complexity of the social order is everywhere in the background of his thinking.

Although he argues that we have in reason a capacity to apprehend natural law, he develops this rationalist theme in a conservative way. Natural law is broad and schematic; it does not imply any specific political arrangements. Similarly, some general references to the need for consent if government is to be legitimized, on which Locke seized for his own, more radical purposes, takes consent to be mediated through custom and established laws.

Hooker was influenced by his contemporary Jean Bodin, who is the first French conservative thinker of note, although an uncharacteristically moderate and pacific one. He was the chief intellectual voice of the *politiques* who tried to alleviate the bellicosity of the warring religious factions. Bodin is best known for his defence of religious toleration and his theory that an ultimately sovereign power is needed to constitute a well-ordered state. The absolutist appearance of that doctrine of sovereignty is deceptive. Bodin insists that the sovereign source of law is himself subject both to the laws of God and nature and to what he calls *leges imperii*, constitutional rules definitive of sovereignty, which require him to respect the property of citizens, who may not be taxed without their consent.

The ups and downs of English political life between the mid-seventeenth and mid-eighteenth centuries gave a series of active politicans the opportunity, when out of office or in exile, to reflect on politics in general terms. Clarendon, Halifax and Bolingbroke all spent part of their careers at or near the centre of power at politically crucial moments. Clarendon, chief minister of Charles II in the early part of his reign and historian of the Great Rebellion, developed ideas about the limits of political knowledge by way of an elaborate criticism of the secular, purportedly scientific absolutism of Hobbes, and used the idea of the 'ancient constitution', the traditional basic law of the community, to limit the pretensions of the crown.

Halifax, a more brilliant, but more occasional, aphoristic writer, is the first truly secular conservative thinker. For him religious dogmatism was the main cause of social instability and of the violence and cruelty that accompanied it. He preferred 'natural reason of state', the fruit of practical, historically inherited experience of actual political life, to abstract ratiocination about 'fundamentals'.

Bolingbroke is a more ambiguous figure. A talented and copious writer, he has been neglected in a morally disapproving way on account of his Alcibiades-like duplicity and, perhaps, his dissoluteness. There is certainly nothing conservative about his best-known book, *The Idea of a Patriot King*, where he pins his hopes for good government on a virtuous, properly educated monarch. Elsewhere, more thoughtfully, he supports a conservative, empirical version of natural law, as indeterminate and variable in its application as Hooker's. He takes man to be naturally sociable and the rule of some over others to be as natural outside the family as in it. The state is an historical growth, not a mechanical contrivance. He endorses constitutionally traditional mixed government and is hostile to the increasing power of the moneyed interest, as encouraged by his enemy, Walpole. Montesquieu, the most conservative of the *philosophes*, may have acquired the idea of the separation of powers from Bolingbroke, rather than, as used to be thought, from a misreading of Locke. A conservative view of Montesquieu's is that good political systems are relative to the particular characteristics – climate, population, and so forth – of the communities involved.

David Hume was a Tory in his practical political allegiance and even more hostile, at any rate more openly hostile, to religion than Bolingbroke. As the first thoroughgoing utilitarian, he rejected the whole Lockean apparatus of natural rights and a social contract that has generally underlain the more high-minded sort of liberalism. But that rejection is entirely compatible with liberalism, as the example of Bentham shows. Hume respected custom but more because it is familiar than because it is wise. Despite his scepticism, he thought a science of politics is possible. A much truer and less marginal conservative is his great disapproving contemporary, Samuel Johnson.

Burke and English conservatism

If conservatism has something of a prehistory, and an early history from Hooker to Bolingbroke and Johnson, it reaches its maturity only with Edmund Burke's tumultuous response to the French Revolution. He began his career as a Whig and called himself a 'new Whig' after he had broken with the old Whigs about the revolution. In the early part of his career he adopted what might appear to be a liberal attitude to the claims of the American colonists and to the right of Britain's Indian subjects to good government. In fact, both positions can more properly be seen as applications of his basic conservatism. In supporting the American colonists he was not appealing to the abstract rights of man but to the colonists' traditional rights as Englishmen. Similarly, in the case of India, he was moved by the consideration that India had a long historic civilization of its own.

Burke's subscription to what I have called the three central doctrines of conservatism may be briefly illustrated by quotations. As a traditionalist he saw the constitution as something historic and continuous, not as a contrivance. We are its 'renters and temporary possessors', not its outright owners. Prescription, he affirms, is the most solid

of titles. As a political sceptic, he says that 'the science of constructing a commonwealth, or renovating it, or reforming it is . . . not to be taught *a priori*'. It 'recognizes experience, and even more experience than a person can gain in his whole life'. As an organicist, he holds that the wise legislator 'has to study the effects of those habits which are communicated by the circumstances of civil life'. 'The operation of this second nature on the first', he goes on, brings about 'many diversities among men' so as to make them 'as it were, so many different species of animals'. There is no universally applicable political ideal or set of abstract human rights.

Morality, as divinely authorized and revealed, may be universal, but politics is circumstantial, a matter of expediency, the prudent pursuit of the advantage of a particular community. But prudence is not the mechanical selection of means to such a simple, universal end as self-interest.

Coleridge in his early years was an adherent of the purest radical of the revolutionary period, William Godwin, and meditated setting up an ideal community of an anarchistic kind in America. But with the passage of time he moved, like his collaborator Wordsworth, to the right, and to the conservative right. 'In Mr. Burke's writings', he proclaimed, 'the germs of almost all political truths are to be found.' In his *Constitution of Church and State* he sketches what looks at first like a utopia, but is, in fact, a romantic idealization of the traditional British political order, in which the permanent interest of land is in harmonious balance with the progressive, urban interest of commerce and industry. Two original contributions are his conception of the national church as having primary responsibility for the maintenance of culture, particularly by way of its control of education and his strong concern with the social consequences of industrialization.

Newman was hardly a political theorist, but he picked out liberalism as the main enemy to be resisted, identifying it with 'false liberty of thought', that is to say, with an optimistic view of the capacity of abstract reason to ensure progress. In state as well as church, although there is, inevitably, change, it should be a continuous development.

Where he, in his spiritual, introspective fashion, was detached from the social problems that had burst out in Victorian Britain, that was what two reflective conservative prime ministers, Disraeli and Salisbury, brought into relation with the fundamental conservative creed. Disraeli, lauding Bolingbroke and taking over ideas from Burke wholesale, believed that the solution to the social problem was a compound of ameliorative legislation to control industry and a call to the new property owners to assume the kind of traditional responsibilities for welfare that had been attached to property. By Salisbury's time, with the Conservative Party transformed into the party of all substantial owners of property by the inclusion in it of the right-wing liberals who broke with Gladstone, conservatism was reduced to a desolate call for resistance to the passion and ignorance of the masses.

A comparable limitation is to be found in the short but influential treatise of his son, Lord Hugh Cecil, half of which is devoted to exploration of the familiar basic principles, the rest to more or less ingenious defences of limited taxation, the maintenance of the British Empire and other, fairly contingent, elements of the platform of the Edwardian Conservative Party. There is quite as evident a conflation of the essential and the accidental in the lively but all too inclusive treatise of Lord Hailsham, *The Case for Conservatism*.

The only impressively new development in conservative thinking in twentieth-century Britain is that to be found in the writings of Michael Oakeshott, who, unlike his predecessors back to Disraeli, was a pure theorist, not a political practitioner. His attack on rationalism in politics is the most thorough and sophisticated assault on the treatment of politics as a technical activity of aiming scientifically at means for clearly determinate ends.

Conservatism in France, Germany and America

Outside Britain before the French Revolution, conservatism, or more precisely the authoritarianism of dynastic absolute monarchies, was so overwhelming in practice, that there was no occasion for conservative doctrine. The only French political thinker of any importance in the seventeenth century, Bossuet, was an authoritarian defender of the divine right of kings, rather than a conservative proper. Even the imported, and sharpened, liberalism of the eighteenth-century *philosophes* did not evoke an articulate conservative response.

The revolution gave an occasion for doctrine, and Burke a powerful and widely followed example. Both de Maistre in France and Möser and Adam Müller in Germany looked up to and imitated him. But French and German conservatives differed from British ones in their extremism. Where Britain had been largely stable for a century and a half, France had undergone a major revolution prolonged, through the Napoleonic era, for a quarter of a century, while Germany had experienced crushing defeats at the hands of the French. In both countries conservative thinkers took these catastrophes to be God's vengeance for impious ratiocination, in the one case; for the crushing of the nobility by the Prussian monarchy, in the other.

French conservatism, as well as being comparatively extreme, is also clear-cut and principled. De Maistre used reason to deny the claims of reason in human affairs and to exalt instinct, particularly the instinct to adhere to the customary, which he saw as divinely implanted. British conservatism had often had a diffuse religious background; in de Maistre and Bonald, an outright theocrat, throne and altar are indissolubly connected as the proper objects of unquestioning and reverent obedience. There was a distant echo of Coleridge, and even Bolingbroke, in their hostility to industry as enthroning self-interest above communal loyalty and patriotism.

Their German contemporaries were more romantic and sentimentally backward-looking, seeing in the feudal organization of the Middle Ages the historic framework within which the German spirit had developed. The state is not a machine for the protection of natural rights or the furtherance of individual interests. They followed Herder in supposing each nation to have its own unique character and needs and repudiated Kant's abstract liberalism, which sought to transcend national boundaries and outlaw war.

The conservative reaction to the second major revolutionary upsurge in 1848 takes on a different form. *Ancien régime* legitimism had been discredited by the follies of the restored Bourbons. Nationalism, having begun as a liberal repudiation of the dynastic principle, was taken over by conservatives, first in Germany in the skilful practice of Bismarck and the theory of Treitschke; later in France, after the débâcle of 1870, by Barrès, Maurras and the Action Française.

Before historical misfortune had excited that brand of aggressive nationalism in France for which the nation was all, the army and the church its vital protection, there had been a more moderate strain of secular conservatism, inspired by Comte's positivism, and detached from much of his speculative and utopian extravagance by Renan and Taine. Renan argued for an elite of scientifically intelligent (and artistically gifted) people but, more conservatively, said 'hereditary prejudice is but unconscious reason'.

In the early nineteenth century European conservatives expressed hostility to industry, railways and large towns as disturbers of social harmony and order. But the irresistible strength of industrial capitalism eventually had to be acknowledged. Both Napoleon III and Bismarck associated authoritarian conservatism with economic modernization, forging an alliance parallel to that developing in Britain between conservatives proper, the agricultural interest, and right-wing liberalism, the political expression of industry. Doctrine found this harder to digest than political practice.

America has always found a place for some kind of conservatism. The American revolution was widely construed as conservative in nature, being an enforcement of the traditional rights of Britons in America. The Federalists, believing in centralization, aimed to limit states' rights and to mitigate democracy in the interests of stability. Southern conservatism, as in Randolph and Calhoun, was altogether more traditional. Both strands of conservatism have persisted up to the present day: one in the form of a combative preference for an unfettered market for individual enterprise to prosper in; the other, more nostalgically and, perhaps, unrealistically, looking back to a traditional hierarchical order which had only the most fitful and marginal existence.

The Central Doctrines Defended

Traditionalism

There are three main arguments – or families of arguments – against change: one direct, another, more important one, indirect and a third empirical.

The direct argument is that change is generally upsetting or distressing, all the more so if it is large and sudden. Stated at that level of generality it can be countered with the objection that surprises are often agreeable, at worst a relief in a time of tedium and monotony, at best an exciting transformation into a better state of things. An answer to that objection is that, for the most part, the changes we find most agreeable or acceptable are usually on a small, comparatively personal scale. Changes of a large, remote and imponderable nature are likely to inspire fear and anxiety. A new car, a promotion, a rearrangement of the living-room furniture are welcome because they can be controlled and even reversed. But large political change, heavy with unpredictable results, is a very different matter, like a volcanic eruption.

The strongest case in general terms for resistance to large and sudden change is, however, indirect. It rests on the great number of unintended and unpredicted consequences that will emerge from change of that kind. The prevailing political system influences numerous and various aspects of life. If it is suddenly or violently transformed, a host of stabilities which provide a background of regularity within which life

can be rationally and prudently led are jeopardized. A change of tailor will affect one's clothing but will have few other substantial results and, if they are objectionable, the change can easily be reversed. A change of political system is likely to influence the whole social environment. It is not only that large political changes have many unintended results that are unwelcome. They also frequently fail to achieve their intended results or achieve opposite ones.

It may be thought that this line of reasoning assumes that most change is for the worse, or, at any rate, that most unintended and unexpected change has bad results. Are these unplanned by-products of change never bonuses, never changes for the better? In the abstract, is not unplanned change as likely to be good as bad? The formation and running of a state is more like walking on a girder high above the ground or driving a car along a narrow, winding road than like tossing a coin. There are innumerable ways in which it is possible to go wrong, indeed disastrously wrong, but only a very tightly restricted number of ways in which you can go right, apart from the simple policy of staying where you are.

Conservative traditionalism does not rule out change. As Burke said in his *Reflections*, 'A state without the means of some change is without the means of its conservation.' But change should be in response both to a change in extra-political circumstances – increase in population, of the proportion of the population that is literate, a new balance between agriculture and industry – and to a widely felt need arising from it, and it should be gradual so that unplanned detrimental side-effects be counteracted. A particular reason for hostility to revolutionary change is that revolutions, when serious and not of the palace variety, bring about a large transfer of power and, naturally, of wealth and status. The resentment of the newly deprived is likely to be violent. The ensuing civil war is likely to divert the revolutionaries from their original intentions.

The third argument, from historical experience of large and sudden political change, reinforces the argument from bad unplanned consequences with specific examples. The English Civil War led not to the rule of the saints but to a military dictatorship. Most of what it managed to achieve was undone at the Restoration and the democratic movement was driven underground for a century or more. The French Revolution quickly degenerated into a brutal, if mercifully brief, despotism, followed by a military dictatorship that was at least glamorous. The Commune of 1871 was rapidly extinguished by the violent reaction it provoked. About the more or less disgusting consequences of the Russian and Chinese Revolutions of 1917 and 1947 it is hardly necessary to go into detail. Parliamentary control of the crown and the extension of the franchise in Britain were attained piecemeal by a long sequence of comparatively small steps.

Scepticism

The theoretical pretensions of revolutionaries and radical reformers which conservatives seek to undermine are not those of political science but rather those of abstract political theory. Political science as an organized form of inquiry is comparatively modern, although anticipated from time to time, for example in much of Aristotle's *Politics*, in various essays of Hume, in the writings of de Tocqueville and Bagehot. Abstract political theory starts from certain propositions about ends, typically about

the universal rights of man or the supreme political values, and proposes, usually in a fairly simple-minded way, means to those ends. A utopia is a conception of society in which those ends are fully realized. A system of natural rights may be presented either as something whose guaranteeing is a necessary condition of political obligation or as an ideal which should guide policy. If the former, then a state which does not provide the required guarantee should be overthrown by revolution. In the latter case there should be consistent pressure for reform in the desired direction.

There are several objections to the non-conservative conception of political ends. In the first place the rights or the supreme political values they subserve are thoroughly indefinite and, therefore, endlessly contestable. Liberty, the ability to do what one wants to do, is, of course *prima facie*, a good. But freedoms conflict and which ones are to be endorsed? Should freedom of expression extend to sedition, slander, provocative utterance dangerous to public order? Justice is even more amorphous. Is it equality, whatever precisely that may be, or distribution according to needs or to desert, that is to say, for services rendered?

Conservatives would agree that there are political ends but they would maintain, first, that there are a considerable number of them. Besides the liberty and equality exalted by the two main kinds of reformer – liberal and socialist – they endorse security, both internal, the preservation of public order, and external, the defence of the community from enemies outside, and also prosperity, the general economic well-being of the community and its members. (Authoritarians make a fetish of security, free enterprise libertarians of prosperity.) For the conservative, none of these is supreme, in the sense that it wholly overrides all the others. But security is, to a certain extent, primary, as being a condition of the effective realization of the others (as also, up to a point, is prosperity). Since there is an irreducible plurality of political values, none is an inalienable right; none should be pursued at the expense of all the rest.

Ends, then, are contestable and plural. This plurality raises the question of the extent to which changes designed to augment the realization of any one of them are likely to undermine the realization of the others. The experience of revolution suggests that they are extremely likely to do so. The French Revolution, directed to the enlargement of liberty and equality, led, first, to the brutal but mercifully short-lived despotism of the Jacobin elite and then to the more efficient and more comprehensive despotism of Napoleon, with a brand-new aristocracy of adventurers taking the place of that of the *ancien régime*. The Russian Revolution maximized the diametrical opposite of its intended ends, carrying exploitation to undreamed-of heights.

A conservative need not dispute the intellectual legitimacy of genuine political science which, unconcerned with ends as such, takes no one, prejudicially defined end as axiomatic. Its concern will be with the way in which political institutions actually work, the way they act on and are acted on by the rest of society, and it will be conscious of the variety and complexity of these interactions. It is more calculated to endorse Burke's recommendation of a cautious prudence than the excited elimination of the existing order of things.

Here too the conservative position can draw on abundant empirical support and not merely from massive revolutionary catastrophes like the collectivization of Russian agriculture under Stalin. The replacement of slums by tower blocks rather than their rehabilitation, the attempt to eliminate drunkenness by Prohibition in the United

States, which, as well as having the opposite effect, gave an enormous boost to organized crime, are bleak examples of localized totalitarianism.

Oakeshott has argued that the distinction between means and ends, taken for granted here, is not applicable to political activity, arguing that it is its own end, like friendship or recreational fishing. Skill here certainly does not require the study of Dale Carnegie-like manuals. But many successful and constructive politicians have been serious students of history in which the rational consideration of politics has largely been found until recent times. Even Oakeshott distinguishes, in effect, between political activity strictly so called, the business of government, and the preservation of conditions in which people can flourish by safely and freely going about their own affairs.

Organicism

The best argument for the view that human beings and the societies of which they are members are organically interrelated is empirical. There are cultures and, in particular, there are national cultures, typically if not quite universally, defined by language. (Where linguistic unity is missing its place can be supplied by a long and continuous history of nationhood, as in Switzerland. In other cases, such as Canada, there hardly is a national culture.) Another way of putting the point is to insist that there is such a thing as national character. People are not, in general, easily exportable, like bicycles, which function just as well in Denmark as in Thailand. The pains of exile are deep-seated, not just a matter of missing certain familiar conveniences and objects of affection.

It is language that humanizes human beings, differentiates them from the rest of the primates, many of which use tools, live in societies, teach their young how to do things. But different languages are only within limits translatable. The way in which an adult immigrant comes to speak the language of his new home is different from that of the natives and carries echoes of his original social setting.

Nations differ from one another in the physical facts of environment and climate, in the balance of occupations within them, in the style of their family life, in type of religion, in degree of technological development. Their citizens differ in what, with varying amounts of illusion, they suppose the distinguishing characteristics of people of their nationality to be. The political and legal system, whatever detached outsiders may think of it, is part of this personality-forming social context, contributing to the settled desires and expectations of those who live under it. That does not mean it is incapable of improvement, only that ramifying and probably undesirable consequences will result from changing it suddenly and systematically. The fact of distinct national cultures as determining the human nature of their members explains both the complexity of any given society, since so many factors in the society have an influence, and the irreducible variousness of those cultures.

It follows that political and social science ought to be carried on in a comparative, not an abstractly generalizing, way. Nations need not be so unique as to defeat all generalization. There can be interesting truths about Colombia and Uruguay, but much less of interest is true about both Cambodia and Sweden.

A more direct empirical support for organicism is the failure of attempts to export the political institutions of advanced Western nations to other parts of the world. In the

Victorian heyday of Eurocentrism, when liberals believed in the essential unity of mankind and the supreme excellence of liberal parliamentary democracy, that scheme of institutions was exported to Latin America and prepared for its twentieth-century transmission to Africa with both ludicrous and tragic results.

A feature of the twentieth century has been a large-scale technological convergence of the world, so that every nation tries to take on as much of what may be called the material culture of the advanced Western nations as it can: large-scale mechanical industry, financial institutions, public utilities, scientific medicine, and so on. But this, as the case of Japan, the most brilliantly successful importer of Western technology, shows, does not imply the incorporation of the rest of the culture of the West. It may lead gently in that direction, but it does not automatically bring it about.

To consider society as an organism is implicitly to compare it to the human body. The parts of the latter cannot really flourish except in their places as parts of the whole. Conservatives would not, like metaphysical authoritarians of a Hegelian kind, press the analogy to the point of saying that the whole significance of the parts is exhausted by the functional service they give to the whole. In the social case it is the parts that are of primary importance even if they essentially require a social whole to be, or have been, part of. But conservatives would agree that where something is recognized to be wrong with the whole it is best to create conditions in which it can get better on its own, rather than to try to cure it by force. But in statecraft as in medical treatment, there are no absolutes; emergencies can arise in which drastic measures are inescapable (an invasion, a revolution, a large natural catastrophe in the political case). Emergencies, however, are, by definition, exceptional.

Implications: Real and Supposed

So far the discussion has been confined to the three rather general doctrines, which have been picked out as central to conservatism. But there are a number of associated doctrines of a more substantive nature which have been closely associated with historical conservatism to such an extent that they have some claim to be essentially constituents of it. The main purpose of this section will be to consider whether such claims are correct, whether these associated doctrines are really implied by the central ones.

Religion

Religion occupies a large place in the greater part of conservative writing: in Hooker, Coleridge and in the French and German conservative thinkers of the early nineteenth century. Burke's references to the divinely ordained character of the state play little part in his essential argument, but are not merely rhetorical; they express his sincere religious faith.

In general terms conservatives have seen the church as an indispensable support to the state in ensuring social order and stability. They have favoured an established church in some shape or form, indeed, in the cases of Hooker and Coleridge, they have seen it as an aspect of the state, even as identical with it, being the state itself considered from a particular point of view.

For better or worse it is hard not to see this as an anachronism. Two sorts of religious division have taken place which have to be taken into account. One is between adherents of the established church and other sects: dissenters and Catholics in Britain, for example. The second is between Christians and non-Christians or, going even further, between believers and those with no religious belief.

The hard political core of establishment is the relegation of those outside it to an inferior form of citizenship, in which only restricted civil rights are enjoyed, of, say, occupation or residence, and the rights to vote and to hold public office are withheld. Tolerance and, in a broad sense, enfranchisement of those outside the established church has been a long and consequently gradual process, usually fiercely resisted by conservatives at every step. It has been accompanied by a steady attenuation of the social functions of the church in education and social welfare. In the contemporary world churches are voluntary societies, of which an individual may attach himself to any or to none.

Although there were conservatives in the past without much or any religious faith – Halifax, Bolingbroke, Hume, probably Disraeli – they still supported the view that there should be an established church. But with the historic transformation of religion it is entirely consistent for a conservative to adjust to changes he would, at the time, have opposed, as Burke absorbed the reduction of royal power brought about by the minimally revolutionary revolution of 1688. Today, to the extent that it is politically active, the church is dominated by left-wing dissidence.

Property and the family

Conservative parties certainly represent the interests of substantial property owners. But, unlike right-wing liberals, individualists and libertarians, conservatives do not follow Locke in taking the right to property to be absolute and indefeasible. Their ideal of property ownership is agricultural, even feudal. Property is a trust rather than a matter of absolute right of use and disposal. Its possession carries with it responsibilities as well as rights. That is the theme of much past conservative criticism of industrialization and of unfettered free enterprise. Furthermore, property is defended and protected by the state, so the state must be allowed to tax it to pursue the indispensable social purposes it serves. Convinced that public security, from enemies outside or inside, is the prime object of state action, they favour a strong and, therefore, adequately supported state.

Conservatives cannot easily accommodate themselves to the idea of a true proletariat, a class without significant property that makes up the greater part of the population. They see it as the unhappy by-product of generally enriching economic changes. In the nineteenth century, it is worth noticing, it was conservatives like Shaftesbury and Disraeli who worked for the relief of distress and the improvement of conditions at work and in the home.

The positive virtue of widely diffused property is that it enhances independence and self-reliance. The indiscriminate and bureaucratically wasteful distribution of welfare doles, by contrast, encourages passivity and inertness.

Property, furthermore, strengthens the family by increasing its ability to fend for itself and, through the institution of inheritance, by linking its generations through

time. If any society is natural it is the family, and conservatives regard its increasing fragility and loss of functions with deep suspicion. There is no plausible alternative to it as the primary means by which children are turned into truly social beings. It is, generally, a socially stabilizing institution. Both property and the family are continuing arrangements which develop in their owners and members a sense of the community as something historically extended and persisting, not a bare arena for the pursuit of immediate satisfaction.

The nation and imperialism

For conservatives the primary object of political loyalty is the nation and not, as for the liberal, mankind in the abstract, or for the socialist, a particular class (theoretically in every country). Both of the other two ideologies are internationalist, at any rate in principle. So far the conservative is a nationalist. He sees it as the chief task of government to pursue the national interest, by, particularly, warding off attack from outside and seeking its prosperity. It was consistent for Victorian conservatives in Britain to support protectionism and is consistent today for many conservatives to be hostile to large-scale Europeanization.

But conservative nationalism is not aggressive. First, it is not essentially imperialistic, even if the Victorian enlargement of the British Empire was supported by conservatives and resisted by liberal adherents of little England. The original eighteenth-century British Empire was a Whig invention and was deplored by Bolingbroke. Going back further, Cromwell was the chief British empire builder of earlier times. But once, by whatever means, an empire has been acquired, where its members are of quite different nationality and culture, conservatives would aim to govern them with their own laws and in the light of their own customs.

Secondly, it is not interfering. It is no part of the proper business of one state to improve the conduct of another. Only in defence of a clear national interest is it a responsible act for a government to become involved with the internal conflicts of another nation or with conflicts between other nations.

Law and the constitution

Law for the conservative is the politically authorized part of custom and custom, as an historical accumulation, deserves our respect. The alternative to the rule of law is discretionary rule and to that he is inevitably opposed. As developed and amended through time, properly applied laws are the outcome of manifold adjustments and on that account to be preferred to the sudden decisions of a single ruler or a small group. Their persistence also ensures that they will have entered into the formation of those affected by them, if only as creating expectations whose disappointment will be upsetting. Just as law is generally to be preferred to discretion, so new legislation should not be so copious as to overwhelm the law as already established.

Of all parts of law the constitution, the law that determines what is the making of a law, is that which should be changed least often and least rapidly. British conservatives, because there is no written British constitution, oppose such a thing, where Americans, with the opposite historical experience, revere it. From a generally conservative point

of view, both are right. The British have the monarch in parliament, the Americans have their written constitution. A conservative would reject the idea of either exchanging constitutional arrangements with the other.

Liberty, equality and democracy

Conservatism does not take any single political ideal, value or alleged 'natural right' to be supreme and to override all the others, although it accords a certain primacy to security, whose preservation it regards as the main task of government.

It does not concern itself with liberty in general or liberty in the abstract. But it does uphold traditional, customary, established liberties. It is opposed to the according of absolute power to government and therefore endorses the preservation of a large area for the private activities of individuals and of the non-governmental associations or institutions in which they are involved. It is unimpressed with the credentials as lovers of liberty of those professed liberals who wish to prevent buying a drink from anyone prepared to sell you one, smoking in public places or the reading by children of *Little Black Sambo*.

Conservatism does not identify equality with justice and, in view of the massive and massively varied differences between people, does not admit any initial presumption in favour of equality of condition. Justice, for the conservative, is, in the first instance, procedural, the impartial application of the law. Substantively, justice is a matter of guaranteeing the enjoyment of customary and established rights. It may often be reasonable and proper to extend the enjoyment of certain rights from some people to others, but that is not to say that such extensions are requirements of justice.

Democracy, as embodying a particular form of equality, is thus not seen as a good in itself. But representative parliamentary institutions, continuously developed in parallel with the political maturity of the population, is, in advanced Western societies, an historically established mode of proceeding and, therefore, worthy of preservation. That does not make it a universal political panacea, as the melancholy history of almost universal lip-service to it makes clear.

Criticisms

A mask for self-interest

Because conservative doctrine has usually been embedded in detailed polemical responses to particular situations and has no recognized or authoritative general formulation, criticism of it has been spasmodic and, perhaps understandably, superficial. Even where conservative doctrine is identified and tackled directly, its purported refutation serves as a preliminary for the more agreeable business of unmasking the interests in preserving the status quo, which, it is held, really determine its adoption.

All ideologies lend themselves to some particular interest, but it is unrealistic to suppose that they are no more than a discreet camouflage behind which the bearers of those interests can self-deceivingly cover their selfishness. It is certainly not a unique

feature of conservatism to answer pre-eminently to a particular interest. If conservatism appeals to those who want to hold on to what they have got, socialism appeals to those who want to deprive them of it by force of law, liberal individualism to those who want to acquire it by unrestricted competition.

It is obviously the case that not all support of ideologies is provided by those whose interests would be conspicuously served by the realization of their ideals or policies. Many with inherited and with earned wealth are socialists. Many more who are without significant property are conservatives. It may be argued that that is because of 'false consciousness', because, in the case of the working-class conservatives, they are deluded about their real interests. It is not clear that the impoverishment of the rich will actually enrich the poor. But, in any case, there is nothing irrational or deluded about having other interests than strictly economic ones.

Against traditionalists

There are two main lines of argument against traditionalism. The first is that it is so vague that it is hardly possible to disagree with and that consequently it does not have any substantial content. The conservative is not opposed to change as such and absolutely, but rather to large and sudden or violent change. But how great does a change have to be to be unacceptably large? Again, conservatives admit that large political changes may be needed to cope with large changes of social or natural circumstances. The same vagueness, it may be argued, is present here.

This is an objection which conservatives should meet by agreeing with it, rather than seeking to rebut it. The vagueness complained of, the conservative could reply, is inevitable, the future course of events cannot be predicted and so cannot be prepared for in specific and detailed terms. The conservative response to novelty must be a matter of judgement, based on experience, not a business of the application of a set of rigid principles.

The critic could argue further that circumstantial changes, for the most part the outcome of technological progress, have very greatly increased in magnitude in recent times, as shown by huge increases in population, in the destructiveness of weapons, in damaging pressure on resources and the natural environment. This is harder for the conservative to deal with, suggesting as it does the anachronistic character of inherited political wisdom. But he could reply that the conservative method of dealing with change, by continuous, gradual steps, is better than confronting it with vast speculative schemes.

The other main argument against conservative traditionalism is that it is inconsistent since it now endorses political and legal arrangements which it strenuously resisted when they were first proposed – the emancipation of Catholics and Jews, the enlargement of the franchise to the unpropertied and women, the reduction of the monarchy to a merely ceremonial status and the political marginalization of the House of Lords, to take only British examples.

The conservative could reply that there is no inconsistency, the high social cost of absorbing these political innovations, which would not have been called for if they had been introduced more gradually, has now been paid. They are now themselves a part of the customary, established political fabric. But one may wonder if they would

ever have come about at all if they had not been forced through against conservative opposition.

Against scepticism

The political scepticism of the conservative is in conflict with the whole tradition of the philosophical theory of knowledge as it has developed since Descartes first brought that discipline into the central position in philosophical studies. Cartesian rationalism regards knowledge as an individual acquisition, in which logic is applied, in a conscious and explicit fashion, to the deliverances of personal, indeed usually private, experience. The social aspect of knowledge is fleetingly acknowledged in casual references to testimony as a source of knowledge, ignoring the fact that most of any individual person's knowledge is derived from others.

Cartesian theorists of knowledge would admit that their picture of the growth of individual knowledge as an explicit, conscious operation is an idealized one. But they would hold that the idealization is an innocent one since, even if incorrect as an account of the way in which beliefs are actually formed, it makes clear what has to be provided for a belief if it is to be justified.

The conservative view of political knowledge as experienced judgement rather than abstract theory denies both the need for and the possibility of explicit, inferential justification of the beliefs involved in it. That does not mean they are just 'intuitions', that is to say a sort of inarticulate guesswork. There is an alternative theory of unreasoned, but not unreasonable, belief to be found in Pascal's *ésprit de finesse*, in Newman's 'illative sense' and, in a less rarefied form, in Ryle's doctrine of the priority of knowing-how to knowing-that.

The natural objection to make to political scepticism about conscious and explicit reason is that, fallible as it may be, it is all we really have, if we are not to fall back on guesses, hunches and prejudices. But to say that is to ignore both the social and the primarily implicit nature of practical knowledge. The conservative would argue that far from being undermined by Cartesian epistemology, his doctrine supplies one of many bodies of evidence against it.

Against organicism

A good deal of intellectual energy has been directed against the metaphysical, Hegelian version of the organic principle that human beings derive their characteristically human properties, their language, culture and critical rationality, for example, from their interaction with the other human beings who make up the society in which they have grown to maturity. In that overweening form organicism is presented as a logical necessity, the conception of a solitary but fully human individual as a self-contradiction. The extravagance of this has tended to cast doubt on the more reasonable contention that organicism is a pervasive fact about human life, like gravity in nature.

A substantial specific objection to the version of organicism required by the conservative is that although human beings are indeed formed by society or, more accurately, the great variety of distinct social relationships into which they enter, that

does not prove any special dependence on the state. Family, school, local community, working group are far more influential.

The objection clearly had some force, although less in the modern world of nation-states than it once had, since nations are real cultural unities, not just administrative contraptions. In modern circumstances, then, the state is one of the major formative, humanizing influences. But the point at issue is the complexity of the web of social relations in which human beings are accustomed to live. It is not the primacy of the state which the conservative relies on organicism to establish, but the liability of state action to have harmful effects on the whole social system when it pursues some end that is in itself expectably beneficial.

Anther criticism is that the organic view implicitly denies creative originality to individuals by seeing their nature and achievements as social products. Wherever there is progress there is creativity emerging from a background of tradition. The scientist is not a pure virtuoso, but science stagnates without virtuosi. The same principle informs Western, although not Eastern, art. The crucial distinguishing feature between politics and those other domains of human activity is that revolutionary innovations do no harm in the latter. In science, as Popper has said, we let our theories die for us. Social experiments tend to kill human beings. Some large historical figures – 'great heroes' – look like artists whose raw material is human beings, but no conservative would wish to be one or be ruled by one.

Ideologies of the Non-conservative Right

Authoritarianism

Authoritarianism is the modern version of absolutism, the operating ideology of most governments in the history of the world, and, in particular, of European monarchies between the seventeenth and nineteenth centuries. The underlying support of the old absolutism was the doctrine of the divine right of kings. In its more legalistic version that doctrine was legitimist, insisting on rights of royal inheritance, literally interpreted, as with the Jacobite adherents of the Stuart house in Britain and the partisans of the Bourbons in France. In a more practical version, the mark of divine authorization is power. Embellished with the contractual apparatus that was the prevailing explanatory convention of its age, Hobbes's *Leviathan* argues for the rationality of submission to a ruler, whose authority lasts as long as his power to enforce it and his power to protect his subjects from one another. The fact that the first of these powers does not have to be conjoined with the power, or, at any rate, the willingness, to maintain the subjects' security is one he fails to confront adequately.

In the modern world authoritarianism usually, as was said earlier, taking the form of military dictatorship, does not go in for the development of articulated ideology. The leader's speeches, largely composed of patriotic rhetoric, are likely to be all that is available. In general, authoritarianism defends itself negatively, as a responsible alternative to the inefficiency and corruption of parliamentary democracy. In the countries where it has prevailed that charge has often been of considerable force.

The military dictatorships of the 1930s were not, for the most part, even allied with the fascists and those of Pilsudski in Poland and Metaxas in Greece fought bravely against Hitler. Franco worked with the fascists of Spain during the civil war, but subsequently discarded them.

Authoritarianism gives the highest place among political values to security: Hobbes's first 'law of nature' was to seek peace. It is an understandable response to circumstances in which security is seriously menaced, whether from outside or from within.

Fascism

Fascism is the youngest of ideologies and, of ideologies that have had large political consequences, it is the most intellectually inarticulate. It has nothing to offer on the scale of Bossuet's or Hobbes's political writings. It combines an intense nationalism, which is both militarily aggressive and resolved to subdue all aspects of public and private life, to the pursuit of national greatness. It asserts that a supreme leader is indispensable, a heroic figure in whom the national spirit is incarnated. It seeks to organize society along military lines, conceiving war as the fullest expression of the national will as brought to consciousness in the leader. It sees the nation not primarily as a cultural entity, defined by a common language, traditional customs, perhaps a shared religion, a history of heroes and great events, but also in questionably biological terms.

It was anticipated in some details by Fichte's nationalism and emphasis on the will, by Carlyle's doctrine of heroes and by Nietzsche's idea of the superman (an idea which had no political implication for Nietzsche, who was neither a nationalist nor a racist). It began in a comparatively trashy, theatrical way with Mussolini in Italy, but achieved its fullest development with Hitler. His atrocities have excluded it from any serious consideration except of a pathological nature.

Where authoritarianism is primarily defensive, fascism is aggressive and militant. Authoritarianism does not seek to mobilize the community and to exercise total control over every aspect of human life; fascism is totalitarian without qualification. Both see the mass of the population as incapable of contributing to the state except through obedience, and fascism calls for active, self-sacrificing obedience. Fascism has no theory as to how leaders should be selected or how leadership should be transferred from one leader to another. Leaders are presumably to emerge as victors in the struggle for power within the ruling party.

In less ferocious hands than Hitler's, such as those of Mosley, it is a kind of elitism of the resolute, taken to be made necessary by the weakness of will of the public in general, including democratic politicians. It makes little appeal to personal self-interest, except to the extent that the political strength of the nation enhances its economic vigour. It attracts those ready to submerge their individuality in the fact of their being members of a particular nation. The organicist doctrine can be called on to justify that submersion when it is taken, as it is not by conservatives, to imply that the whole *raison d'être* of the individual is the service of the state, in the way that the function of a particular organ is to contribute to the well-being of the body of which it is a part.

Elitism

The elitism of Plato's *Republic* is strictly intellectual. The rulers should be the most intelligent, who will become the wisest if given the right kind of education. The idea that the wisest should rule has an obvious attraction. If there is to be government at all, there must be a ruling minority which makes laws and determines policy, and a ruled majority which obeys it.

A version of this point of view of some elaboration is to be found in Fitzjames Stephen's *Liberty, Equality and Fraternity*, his polemic reply to Mill in which he sets out a kind of administrative elitism, nourished by his experiences as a judge in India, on a utilitarian basis, as best calculated to satisfy the more deep-rooted desires, or, at any rate, to meet the serious needs, of the public at large.

It is encumbered with two main difficulties. One is theoretical, that of deciding what wisdom, the wisdom required of rulers, actually is. The other is practical, that of identifying its possessors and installing them in positions of power. The institution of the Chinese mandarinate supplies an answer, of sorts, to both questions. Wisdom is what is revealed by doing well in examinations. Government posts are open only to those who have done well. Nineteenth-century reforms in the mode of recruitment of the British civil service, where examinations selected those prepared in Jowett's Oxford, created a form of mandarinate operating in association with a hereditary aristocracy and an elected chamber. The graduates of the *grandes écoles*, particularly the Ecole Nationale d'Administration, in France form a comparable group of, partially, ruling experts.

The most notable writings in the twentieth century about the rule of an elite are sociological rather than explicitly ideological. Pareto, Mosca and Michels all subscribed to the 'iron law of oligarchy' proclaimed by the last named, which holds that every organization must develop a ruling elite. All, particularly Pareto, convinced of the limited political rationality of the bulk of the public, examined the techniques of deception by means of which elites preserve themselves in power. Those who suppose elites to be inevitable might be expected to address the question of what constitutes a good one and the associated question of how to secure it.

There is an implicitly prescriptive element in what has been called Schumpeter's theory of 'democratic elitism'. Ostensibly he offers an account of the actual workings of representative democracy. It is not a device for the expression and realization of any kind of general will. It is rather a competition between different groups in the politically active minority to secure the permission of the voting public to run the government. In holding direct democracy in the manner of Rousseau to be impossible, he is really saying that it would lead to intolerable results. In democracy as he sees it, the public's influence on the process of government is tailored to their capacity to contribute to it.

Each of these three non-conservative right-wing ideologies differs from conservatism in its own way. Authoritarianism endorses unlimited government, free from constitutional restraint and attaching no great importance to the rule of law. Fascism is a revolutionary creed, taking what conservatism regards as crisis to be the healthiest condition of the state. Elitism is rationalistic and locates political wisdom in the intelligent living rather than their experienced ancestors. What all have in common is a higher valuation of security than any of the ideologies to the left of them.

References

Aquinas, St T.: *De Regimine Principium*, trans. G. B. Phelan, *On Kingship, to the King of Cyprus* (Toronto: Pontifical Institute of Medieval Studies, 1949).
Aristotle: *Politics*, trans. R. Barker (Oxford: Clarendon Press, 1946).
Bagehot, W.: *Physics and Politics* (London: H. S. King, 1872).
Barrès, M.: *Le Roman de l'énergie nationale* (Paris: Bibliothèque-Charpentier, 1897–1911).
Bodin, J.: *Six Books of the Commonwealth*, trans. M. J. Tooley (Oxford: Blackwell, 1953).
Bolingbroke, H. St J. (Viscount Bolingbroke): *Works*, ed. D. Mallett (London, 1754); (Hildesheim: G. Olma, 1968).
Bonald, L. G. A. (Vicomte de): *Théorie de pouvoir politique et religieux* (1796); (Paris: Bloud et Barral, 1988).
Bossuet, J.-B.: *Politique tirée des propres paroles de l'écriture sainte* (1709), ed. J. le Brun (Genève: Librairie Dioz, 1967).
Calhoun, J. C.: *A Disquisition on Government* (1853), ed. R. K. Cralle (New York: P. Smith, 1943).
Carlyle, T.: *On Heroes, Hero-worship and the Heroic in History* (London: Chapman, 1840).
Cecil, H.: *Conservatism* (London: Williams & Norgate, 1912).
Cicero: *De Republica*, trans. G. H. Sabine and S. B. Smith (Columbus, OH: Merrill, 1929).
Clarendon, E. (Earl of): *A Brief View of Leviathan* (Oxford: The Theatre, 1676).
Coleridge, S. T.: *On the Constitution of Church and State*, ed. J. Colmer (London: Routledge & Kegan Paul, 1976).
Disraeli, B.: 'Vindication of the English constitution', in *Of Whigs and Whiggism*, ed. W. Hutcheon (London: J. Murray, 1913).
Fichte, J. G.: *Reden an die deutsche Nation; Addresses to the German Nation*, trans. R. F. Jones and G. H. Turnbull (Chicago: Open Court, 1922).
Halifax, G. S. (Marquis of): *Works*, ed. Walter Raleigh (Oxford: Clarendon Press, 1912).
Hamilton, A., Madison, J. and Jay, J.: *The Federalist* (1787–8). ed. J. E. Cooke (Middletown, Conn.: Wesleyan University Press, 1961).
Hayek, F. A.: *The Constitution of Liberty* (London: Routledge & Kegan Paul, 1960).
Herder, J. G.: *Ideen zur philosophie der Geschichte der Menschheit* (1800), trans. F. E. Manuel, *Reflections on the Philosophy of the History of Man* (Chicago, Ill.: University of Chicago Press, 1988).
Hitler, A.: *Mein Kampf* (1933), trans. and ed. R. Manheim (London: Hutchinson, 1972).
Hobbes, T.: *Leviathan* (1651), ed. R. Tuck (Cambridge: Cambridge University Press, 1991).
Hogg, Q. (Lord Hailsham): *The Conservative Case* (Harmondsworth: Penguin Books, 1948).
Hooker, R.: *The Laws of Ecclesiastical Polity* (1593–7), ed. A. S. McGrade (Cambridge: Cambridge University Press, 1989).
Hume, D.: *Treatise of Human Nature* (London: John Noon, 1739).
—: *Essays: Moral, Political and Literary* (1777), ed. E. F. Miller (Indianapolis, Ind.: Liberty Classics, 1985).
Johnson, S.: *Works*, ed. A. Murphy (London: F. C. & J. Rivington, 1823).
Maistre, J. M. (Comte de): *Works*, ed. J. Lively (London: Allen & Unwin, 1965).
Maurras, C.: *Enquête sur la monarchie* (1900), 2nd edn (Paris: Nouvelle librairie Nationale, 1924).
Michels, R.: *Political Parties*, trans. E. and C. Paul (Glencoe, Ill.: Free Press, 1949).
Montesquieu, C.-L. de S.: *The Spirit of the Laws*, ed. F. Neumann, trans. T. Nugent (New York: Hafner, 1949).

Mosca, G.: *The Ruling Class*, ed. A. Livingstone, trans. H. D. Kahn (New York: McGraw-Hill, 1939).
Mosley, O.: *The Greater Britain* (London: British Union of Fascists, 1932).
Müller, A. H. R. v. N.: *Die Elemente der Staatskunst* (1809); (Vienna: Wiener Literarische Anstalt, 1922).
Newman, J. H.: 'Appendix', *Apologia Pro Vita Sua* (1864), ed. D. J. DeLaura (New York: Norton, 1968).
—: *A Grammar of Assent*, ed. T. I. Ker (Oxford: Clarendon Press, 1985).
Nietzsche, F. W.: *Beyond Good and Evil*, trans. R. J. Hollingdale (Harmondsworth: Penguin, 1973).
—: *The Genealogy of Morals*, trans. W. Kaufman (New York: Random House, 1989).
Oakeshott, M.: *Rationalism in Politics* (London: Methuen, 1962).
Pareto, V.: *The Mind and Society*, ed. A. Livingstone, trans. A. Bongiorno and A. Livingstone (London: Cape, 1935).
Pascal, B.: *De l'espirit géométrique*, in *Oeuvres Complètes*, ed. J. Chevalier (Paris: Gallimard, 1954).
Plato: *Republic*, trans. A. D. Lindsay (London: Dent, 1939).
Popper, K. R.: *The Open Society and Its Enemies* (London: Routledge & Kegan Paul, 1945).
Renan, E.: *La Réforme intellectuelle et morale* (1871), ed. P. E. Charvet (Cambridge: Cambridge University Press, 1950).
Ryle, G.: *The Concept of Mind* (London: Hutchinson, 1949).
Salisbury, R. A. T. G.-C. (Marquess of): *Lord Salisbury on Politics*, ed. P. Smith (Cambridge: Cambridge University Press, 1972).
Schumpeter, J. A.: *Capitalism, Socialism and Democracy*, 3rd edn (New York: Harper & Row, 1950).
Stephen, J. F.: *Liberty, Equality and Fraternity* (London: Smith, Elder, 1873).
Taine, H.: *Les Origines de la France contemporaine* (1876–85); (Paris: Hachette, 1947).
Tocqueville, A. de: *Democracy in America* (1835), trans. G. Lawrence, ed. J. P. Mayer and M. Lerner (New York: Harper, 1966).
Treitschke, H. von: *Politics*, trans. B. Dugdale and T. de Bille (London: Constable, 1916).

Further reading

Allison, L.: *Right Principles* (Oxford: Blackwell, 1984).
Aris, R.: *History of Political Thought in Germany 1789–1815* (London: Allen & Unwin, 1936).
Covell, C.: *The Redefinition of Conservatism* (New York: St Martin's, 1986).
Cowling, M., ed.: *Conservative Essays* (London: Cassell, 1978).
Gilmour, I.: *Inside Right* (London: Hutchinson, 1977).
Hearnshaw, F. J. C.: *Conservatism in England* (London: Macmillan, 1933).
Honderich, T.: *Conservatism* (London: H. Hamilton, 1990).
Huntington, S. P.: 'Conservatism as an ideology', *American Political Science Review*, 51 (1957), 454–73.
Kirk, R.: *The Conservative Mind* (London: Faber, 1954).
Mannheim, K.: 'Conservative thought', in *Essays in Sociology and Social Psychology*, ed. P. Kecskemeti (London: Routledge & Kegan Paul, 1953).
O'Sullivan, N.: *Conservatism* (New York: St Martin's, 1976).
Quinton, A.: *The Politics of Imperfection* (London: Faber & Faber, 1978).
Santayana, G.: *Dominations and Powers* (London: Constable, 1951).

Scruton, R.: *The Meaning of Conservatism* (London: Macmillan, 1980; 2nd edn, 1984).
Soltau, R. H.: *French Political Thought in the Nineteenth Century* (London: E. Benn, 1935).
Viereck, R. E.: *Conservatism* (Princeton, NJ: D. van Nostrand, 1956).
Weiss, J.: *Conservatism in Europe, 1770–1945* (London: Thames & Hudson, 1977).

Addendum

ANNE NORTON

The waning years of the twentieth century sharpened the edge of Anthony Quinton's queries and demonstrated the political wisdom of his caveats. Absent a differentiation of positions on the political right, the term 'conservatism', especially as employed in popular parlance, comprehended not only the conservatism of Burke and Oakeshott, de Maistre, Randolph and Kirk, but an array of positions. The most significant of these were neoconservatism and religious movements of the right,

Neoconservatism understood itself as a radical departure from traditional conservatism. Neoconservatives took their bearings not from Burke and Oakeshott (or Randolph, Davidson and Kendall) but from Hayek, Strauss, Kojeve and, especially in matters of sovereignty and executive power, Carl Schmitt. Neoconservatives favoured the expansion of executive power. They defended authoritarianism outside the West and argued that Western nations would profit from a more authoritarian, more disciplined, democracy. They advocated an expansionist foreign policy in the United States, directed at establishing a new world order to rival Rome. They praised military power as the foundation of public safety and private virtue. They favoured the establishment of stronger police powers and more extensive surveillance. In these respects, they represented not conservatism, but the survival of other ideologies of the right: fascism, authoritarianism, elitism and individualist liberalism.

Authoritarianism received a vigorous contemporary defence in the West from both neoconservatives and the social theorists of neoliberal economics. Some proponents of executive power appropriated the conservative defence of custom in its postcolonial form, offering defences of authoritarian rule as an expression of local religious and political traditions. Others maintained the more traditional authoritarian preoccupation with public order.

Elitism was revived by newfound defenders of imperialism and by certain of the neoconservative followers of Leo Strauss. The former advanced national and civilizational hierarchies and argued for the revival of virtues supposedly attendant on Victorian imperial dominion. The latter, whose philosophical doctrines were ostensibly drawn from Plato, Machiavelli and Strauss, advocated the discreetly concealed rule of a philosophical and political elite and allied themselves with authoritarian interpretations of executive power.

Arguably the most important developments in conservative political philosophy came from religious fundamentalisms. In Islam, the *salafi* right fuelled the revival of philosophy as it fuelled political insurgency. Sayyid Qutb, the mid-twentieth-century

social theorist associated with the Muslim Brothers, remained a potent political and theoretical force. Christianity saw a resurgence of natural law theory, of millenarianism, and of what might be called a sentimental Christian conservatism of habit and practice. Judaism saw related currents in orthodoxy and Hasidism, while the political influence of Hindutva indicated that the importance of a revived political theology extended well beyond the Abrahamic faiths. Each religious fundamentalism understood itself in terms consonant with elements of conservatism. All reverenced tradition. All saw themselves as preserving a community through forms and practices. Hindutva and Jewish fundamentalisms had an organicism foreclosed by the universalism of Christianity and Islam, but the latter often acquired a theologically suspect but politically powerful localism by association with the idea of 'civilization'.

At the turn of the century, a nominally powerful conservatism waned before a resurgent religiosity of the right, and the revival of authoritarianism, elitism, and substantive elements of fascist ideologies.

Further reading

Almond, G., Appleby, S. and Sivan, E., eds: *Strong Religion* (Chicago, Ill.: University of Chicago Press, 2003).

Appleby, S. and Martin, M., eds: *Fundamentalisms and the State* (Chicago, Ill.: University of Chicago Press, 1996).

Bloom, A.: *Closing of the American Mind* (New York: Simon and Schuster, 1988).

Drury, S.: *Leo Strauss and the American Right (*New York: St. Martin's Press, 1997).

Euben, R.: *The Enemy in the Mirror* (Princeton, NJ: Princeton University Press, 1999).

Ferguson, N.: *Empire* (New York: Basic Books, 2004).

George, R.: *Natural Law Theory* (London: Oxford University Press, 1994).

Hayek, F.: *Road to Serfdom* (Chicago, Ill.: University of Chicago Press, 1944).

Huntington, S.: *The Clash of Civilizations* (New York: Simon and Schuster, 1998).

Kagan, R. and Kristol, W.: *Present Dangers* (New York: Encounter Books, 2000).

Kendall, W.: *Contra Mundum* (Lanham, Ma.: University Press of America, 1994).

Khomeini, R.: *Islam and Revolution*, trans. H. Algar (Berkeley, Calif.: Mizan Press, 1981).

Kirk, R.: *The Conservative Mind* (New York: Regnery Press, 2001).

Kojeve, A.: *Introduction to the Reading of Hegel* (Ithaca, NY: Cornell University Press, 1980).

Kristol, I.: *Neoconservatism: Autobiography of an Idea* (New York: Free Press, 1995).

Lord, C.: *The Modern Prince* (New Haven, Conn.: Yale University Press, 2003).

Mansfield, H.: *Manliness* (New Haven, Conn.: Yale University Press, 2006).

Muller, J. W.: *A Dangerous Mind: Carl Schmitt in Postwar European Thought* (New York: Free Press, 2003).

Murley, J.: *Willmoore Kendall, Maverick of American Conservatives* (Lanham, Md.: Lexington Books, 2002).

Norton, A.: *Leo Strauss and the Politics of American Empire* (New Haven, Conn.: Yale University Press, 2004).

Phillips, K.: *American Theocracy* (New York: Viking, 2006).

Qutb, S.: *Social Justice and Islam* (Villa Park, Ill.: Islamic Publications International, 2000).

Schmitt, C.: *The Concept of the Political*, trans. G. Schwab (Chicago, Ill.: University of Chicago Press, 1996).

Scruton, R.: *The Meaning of Conservatism* (Chicago, Ill.: St. Augustine's Press, 2002).
Smith, S.: *Reading Leo Strauss: Politics, Philosophy, Judaism* (Chicago, Ill.: University of Chicago Press, 2006).
Strauss, L.: *Natural Right and History* (Chicago, Ill.: University of Chicago Press, 1996).
Suskind, R.: *The One Percent Doctrine* (New York: Simon and Schuster, 2006)
Twelve Southerners: *'I'll Take My Stand'* (Baton Rouge, La.: Louisiana State University Press, 1978).

Chapter 12

Cosmopolitanism

THOMAS POGGE

Based on the ancient Greek words *cosmos* (world) and *polites* (citizen), a *cosmopolitan* is a citizen of the world. The more common modern meaning closely reflects these ancient roots. Persons are called *cosmopolitans*, or *cosmopolitan*, when they are understanding and respectful of foreign cultures, travel widely, and can interact well with people from many societies. And cities or gatherings are called *cosmopolitan* when they bring together persons and groups with diverse ethnicities, languages, cultures, religions or lifestyles.

Like other -isms, *cosmopolitanism* is an intellectual position – or, more precisely, a family of such positions. With aesthetic considerations standing in the way of calling such a position and its adherents 'cosmopolitanist' (in analogy to 'perfectionist' and 'materialist'), the word 'cosmopolitan' has assumed a second meaning: characterizing a theory or person committed to cosmopolitanism. Only this second meaning of 'cosmopolitan' concerns us here.

Unlike some other -isms, cosmopolitanism involves not merely views about how things are, but primarily views about how things ought to be. Cosmopolitan positions centrally include evaluative and normative views; they assess and prescribe. The central idea guiding these moral assessments and prescriptions is that of *including all human beings as equals*. This central idea can be understood and employed in diverse ways, and a variety of cosmopolitan positions can therefore be distinguished.

This variety can be reconstructed in two steps. In a first step, one distinguishes topically the various subject matters to which the central cosmopolitan idea can be applied. In a second step, one can then distinguish, within each subject matter, different ways of understanding and applying the central cosmopolitan idea. Focusing on the first step, let me distinguish four main kinds of cosmopolitanism, each of which will then be more fully discussed in a subsequent section.

To motivate this distinction, we can start out from the way moral conceptions are generally categorized according to the types of entities, or *iudicanda*, for which they provide assessments and prescriptions. Such iudicanda are of four main types: individual and collective *agents*, the *conduct* of such agents, *social institutions* (rules, practices) and *states of the world*.

Ways of assessing agents and their conduct are closely interrelated and therefore usually treated together in what may be called a *conception of ethics*. Such a conception

is cosmopolitan if its assessments and prescriptions are based on taking equal account of the interests of all human beings. Cosmopolitan conceptions of ethics exemplify our first kind of cosmopolitan position: *ethical cosmopolitanism*.

The subject matter of agents and their conduct can be further subdivided. One can formulate a conception of ethics specific to individual human beings and their conduct, for instance, or a conception of ethics specific to states and their conduct. When such a conception is animated by the central cosmopolitan idea, it can be said to exemplify, respectively, *interpersonal* or *international ethical cosmopolitanism*.

There are two prominent ways of applying the central cosmopolitan idea to the subject matter of social institutions. The more direct way is through the demand that social institutions ought to be designed so that they include all human beings as equals. A moral conception centring around this demand envisions one universal political society that includes, or at least is open to, all human beings. Invoking the ancient Greek word *polis* (city-state), such a universal polity is often called a *cosmopolis*. Any moral conception prescribing such a unified legal organization of the whole human world in preference to other institutional designs can be said to exemplify *legal cosmopolitanism*. This is our second kind of cosmopolitan position.

There is also a more indirect way for a moral conception to address the subject matter of social institutions. Rather than demand outright some particular institutional design, such a conception might instead endorse a moral criterion by reference to which alternative institutional designs ought to be assessed and ranked. Following John Rawls (1999a [1971]), moral conceptions of this sort have come to be known as conceptions of (social) justice. A conception of social justice is cosmopolitan if and only if its assessments and prescriptions are based on taking equal account of the interests of all human beings. Cosmopolitan conceptions of social justice exemplify our third kind of cosmopolitan position: *social justice cosmopolitanism*.

It is an open, partly empirical question whether a cosmopolitan conception of social justice (endorsing some specific moral criterion for assessing alternative institutional designs) supports some particular variant of legal cosmopolitanism (endorsing some particular type of world state). Whether it does depends on how it specifies the relevant interests of human beings and on whether the so-specified human interests, taken equally into account, are best served by some world state or by some alternative design of the global institutional order, such as a system of sovereign states.

While the evaluative component of any legal or social justice cosmopolitanism is focused on the design of social institutions, its prescriptive component addresses individual and collective agents, specifying their responsibilities in regard to social institutions. In this respect, such conceptions are complementary to conceptions of ethics – the former specifying the responsibilities human agents have specifically in regard to social institutions and the latter specifying their remaining responsibilities within a given social and institutional environment. Here a commitment to legal or social justice cosmopolitanism can be combined with a rejection of ethical cosmopolitanism: one can endorse a world state (legal cosmopolitanism) and/or a cosmopolitan conception of social justice – and simultaneously deny that human agents, even beyond their responsibilities in regard to social institutions, are required to take impartial account of the interests of all human beings worldwide.

The distinction between these two subject matters of morality – one centring on institutional design, the other on human conduct and character within a given social and institutional environment – has traditionally been seen as posing a problem of the unity and coherence of morality as a whole. Historically, different solutions to this problem have been proposed. One approach seeks to achieve unity through structural homologies, as when Plato theorized that justice in individuals has the same complex *structure* as justice in the city-state. Another approach seeks to achieve unity through subordination: by shaping the polity for the sake of ethical living or, conversely, by shaping human conduct and character for the sake of the polity. Yet another approach seeks to achieve unity instrumentally: by directing social institutions as well as the conduct and character of human agents to one common goal. It is within this last approach that the fourth iudicandum, states of the world, comes to the fore.

Moral conceptions focused on states of the world postulate a common goal or system of goals: that the world should go well by the lights of some evaluative standard. Such a common goal – which may involve a complex combination of interrelated desiderata – is often formulated in terms of justice: as the goal of a just world or of justice on earth. In such formulations, justice is understood as a property of states of affairs, *not* of social institutions. Though often conflated, these two understandings of justice are importantly different. A common-goal conception might diagnose as an injustice the sheer *fact* that some are born into affluence and others into poverty, while a corresponding social-justice conception would diagnose as unjust any *institutional order* that avoidably gives rise to such unequal starting positions. While the former is focused on the assessment and improvement of states of the world, the latter is focused on the assessment and reform of social institutions. I flag this important conceptual difference between two ways of understanding justice through selective use of the word 'social'. The claim that the world ought to be such that people have equal opportunities is a claim about justice; the claim that social institutions ought to be designed so that people have equal opportunities is a claim about social justice.

Any conception that unifies morality's subject matters by postulating one common goal for all of them is *monistic* in the sense of Liam Murphy (1998). It applies to all moral questions – including the questions of how social institutions ought to be designed and of how human agents ought to conduct themselves within a given social and institutional context – and it answers them all in a unified, broadly consequentialist way by reference to a single evaluative standard. Such a monistic moral conception is cosmopolitan if and only if the standard in terms of which it assesses the world takes equal account of the interests of all human beings. If it does, then this conception exemplifies our fourth and final kind of cosmopolitan position: *monistic cosmopolitanism*.

Legal Cosmopolitanism

Legal cosmopolitanism endorses a world state or *cosmopolis* which, invoking the ancient Greek word *polis* (city-state), is a political society that includes all human beings or at least is open to all. Endorsed by various Cynic and Stoic thinkers in antiquity and envisioned by Anarcharsis Cloots in the aftermath of the French Revolution, legal

cosmopolitanism has remained a fringe view that is today dismissed nearly universally (but see Nielsen, 1988; Wendt, 2003).

These dismissals tend to be quick, typically doing little more than point out that a world state would be dangerous and that Kant also thought it a bad idea. Rawls is fairly typical, writing: 'I follow Kant's lead in *Perpetual Peace* (1795) in thinking that a world government . . . would either be a global despotism or else would rule over a fragile empire torn by frequent civil strife as various regions and peoples tried to gain their political freedom and autonomy' (Rawls, 1999b, p. 36).

This appeal to Kant is questionable. Kant writes that a plurality of independent states 'is still to be preferred to their amalgamation under a single power which has overruled the rest and created a universal monarchy. For the laws progressively lose their impact as the government increases its range, and a soulless despotism, after crushing the germs of goodness, will finally lapse into anarchy' (Kant, 1923 [1795], p. 367). This passage expresses strong reservations about a universal monarchy achieved by conquest. Kant does not, here or elsewhere, express such reservations about a liberal world republic achieved through a peaceful merger of republics. To the contrary, he prefers such a world republic over a league of sovereign states, and thus seems to endorse the latter for merely strategic reasons:

> For states in their relation to one another, there cannot be any reasonable way out of their lawless condition which entails only war except that they, like individual human beings, should give up their savage (lawless) freedom, adjust themselves to public coercive laws, and thus establish a continuously growing international state (*civitas gentium*), which will ultimately include all the nations of the world. But under their idea of the law of nations they absolutely do not wish to do this, and so reject in practice what is correct in theory. If all is not to be lost, there can be, then, in place of the positive idea of a world republic, only the negative surrogate of an alliance which averts war, endures, spreads, and checks the force of that hostile inclination away from law, though such an alliance is in constant peril of its breaking loose again. (Kant, 1923 [1795], p. 357)

Even granting, without textual support, that Kant believed any world state would invariably lead to despotism or civil strife, it is quite doubtful that his opinion is the best evidence one can have about whether a just world government is feasible in the twenty-first century and beyond. This is doubtful because the last 200 years have greatly expanded our historical experience relevant to this question and have vastly improved our social theorizing, especially in economics and political science. In particular we have learned from the federalist systems of the United States and the European Union that – Kant's contrary view notwithstanding – a genuine division of powers, even in the vertical dimension, is workable and no obstacle to stability and justice (Pogge, 1992).

While the common dismissals of legal cosmopolitanism are extraordinarily flimsy, they contain an important element of truth: endorsement or rejection of any specific world state model should depend in large part on an evaluation of how this model would actually work in the real world. A well-grounded expectation that such a model is associated with a substantial risk of despotism or civil strife is a solid moral reason for opposing its implementation. An unqualified commitment to any variant of legal cosmopolitanism should therefore be rejected.

Any systematic evaluation of world state models, assessing them against one another and against alternative global institutional designs (such as a system of sovereign states), requires some moral criterion or standard of assessment as formulated and defended by a conception of social justice. Let us then examine conceptions of this kind – and cosmopolitan conceptions of social justice in particular – that might possibly ground a qualified commitment to some variant of legal cosmopolitanism.

Social Justice Cosmopolitanism

Legal cosmopolitanism is distinctive by advocating a cosmopolitan institutional order, while the other three kinds of cosmopolitanism advocate cosmopolitan moral standards or criteria – for assessing, respectively, human agents and their conduct, social institutions, states of the world. Following the more recent literature, we might say broadly that all three kinds of moral cosmopolitanism share four commitments in common:

- *Normative Individualism*: The ultimate units of moral concern are *human beings*, or *persons* – rather than, say, family lines, tribes, ethnic, cultural or religious communities, nations, or states (which may be units of moral concern only indirectly, in virtue of their individual members). A cosmopolitan moral criterion thus bases its assessments and prescriptions solely on information about how individual human beings fare or are treated.
- *Impartiality*: In processing such information, a cosmopolitan moral criterion takes each included human individual into account symmetrically. Economists call this the Anonymity Condition: that a certain number of included individuals experience a certain fate or treatment enters the assessment in the same way, regardless of who these individuals are.
- *All-Inclusiveness*: Every human being counts as an ultimate unit of moral concern and is therefore included in the information base on which a cosmopolitan moral criterion bases its assessments and prescriptions.
- *Generality*: This special status of every human being has global force. Persons are ultimate units of concern *for everyone* – not only for their compatriots, fellow religionists or suchlike. The assessments and prescriptions a cosmopolitan moral criterion delivers claim authority over all individual and collective human agents.

We can better understand what a criterion *of social justice* is by looking at the criterion proposed by Rawls. In his classic work *A Theory of Justice*, Rawls focuses on the institutional order ('basic structure') of a self-contained and self-sufficient society of human beings and argues for assessing alternative feasible designs of this institutional order on the basis of the distribution of social primary goods each such design would generate among the society's individual members. The criterion he formulates for the comparative assessment of such distributions – his famous two principles of justice (Rawls, 1999a, pp. 266–7) – contains both absolute and relative components: as far as possible, the basic structure is to be designed so that each person has a fully adequate scheme of equal basic liberties, so that fair equality of opportunity obtains, and so that

the difference principle is satisfied (socio-economic inequalities among citizens are generated exactly insofar as this optimizes the worst socio-economic position).

By taking the self-contained and self-sufficient society of Rawls's theory to be humankind at large, one arrives at a cosmopolitan interpretation of his theory. According to this interpretation, the global basic structure should, as far as possible, be designed so that each human being has a fully adequate scheme of equal basic liberties, so that fair equality of opportunity obtains worldwide, and so that the difference principle is satisfied globally (socio-economic inequalities among human beings are generated exactly insofar as this optimizes the globally worst socio-economic position).

Rejecting this cosmopolitan interpretation, Rawls wants his theory to be applied only to certain national societies, paradigmatically the United States. In fact, he rejects at the global level *any* substantive conception of social justice, cosmopolitan or otherwise. Transnational institutional arrangements are to be designed through agreements negotiated among liberal and decent societies (Rawls,1999b, p. 37, laws 2 and 3). Left unconstrained by any substantive conception of social justice, such negotiations reflect the unequal expertise and bargaining power among negotiating governments and tend to sideline the interests of individuals, especially of those living in non-liberal or poorer societies.

Rawls does provide a moral conception that reaches beyond national borders. This conception applies not to transnational institutional arrangements, but to the foreign policy of liberal and decent societies. Beyond that, it differs from a cosmopolitan conception of social justice in three further respects. First, Rawls's international conception takes *peoples* rather than individual persons as the sole units of moral concern, stipulating each people's sole interest to be that it maintain itself as a well-ordered (i.e., liberal or decent) society. Second, Rawls takes this interest to support a moral concern only for the *absolute* deprivation of other societies. Well-ordered societies ought to help other willing societies reach a threshold level at which they, too, could be well ordered. They can do this by giving economic assistance to burdened societies and by promoting respect for human rights. Such help is humanitarian – not something a burdened society or its citizens could claim as their due. Third, inequality across national borders – *relative* deprivation – is a matter of moral indifference. No matter how large such inequality may be or become, well-ordered societies have no moral reason to rein it in.

Leaving aside the internal problems with this non-cosmopolitan conception of international ethics Rawls presents (Pogge, 1994), what reasons can be offered for rejecting *any* conception of social justice applying to transnational institutional arrangements? One reason Rawls gives is the supposed infeasibility of a world state. This is not a good reason. If a world state were indeed associated with great dangers of despotism and civil strife, then a cosmopolitan conception of social justice (e.g., the cosmopolitan interpretation of Rawls's theory) would correctly reject this institutional design in favour of other designs that better secure the fundamental interests of all human beings – perhaps a global federation on the model of the European Union, or a loose league of nations as Kant had described, or a states system like that existing now. The infeasibility of a world state counts against *legal* cosmopolitanism, but not against social justice cosmopolitanism.

Another reason Rawls gives is that his theory of social justice is too distinctively liberal to be acceptable across the diversity of human cultures. This may be a good

reason against the Rawlsian variant of social justice cosmopolitanism, but cultural diversity could be accommodated through a less demanding variant of social justice cosmopolitanism. We find an idea for a plausible such variant in Article 28 of the *Universal Declaration of Human Rights*: 'Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.' The basic idea here is that the design of all social institutions should be guided by the pre-eminent goal that the human rights of all human beings be fulfilled. If this goal cannot be fully achieved, we should come as close as possible. The principal imperative governing all institutional design is that of minimizing avoidable human rights deficits – with human rights deficits possibly weighted differentially on the basis of their causal genesis, giving greater weight to any deficits that social institutions require or authorize than to deficits these social institutions merely engender or fail to prevent.

A plausible and widely sharable cosmopolitan conception of social justice could contain, as an additional subsidiary directive for institutional design, a preference for more equal socio-economic distributions among human beings (the Pigou–Dalton condition is one prominent specification of this preference).

Such a conception of social justice is *individualistic* by focusing exclusively on how individual human beings fare or are treated: on each person's human rights and socio-economic share. It is *all-inclusive* by taking account of the human rights and socio-economic shares of all human beings worldwide. It is *impartial* by taking the human rights and socio-economic shares of all human beings symmetrically into account. And it is *general* by specifying all human agents' responsibilities in regard to social institutions.

Despite its emphasis on human rights, such a conception of social justice need not be excessively Western or liberal. To be fully realized, a human right must be fulfilled for all. It is fulfilled for any one human being when this person has secure access to its object (that which the human right is a right to). The pre-eminent goal of institutional design is then that all human beings have secure access to the objects of all their human rights. This goal is widely sharable in a world of diverse cultures. It does not incorporate global versions of fair equality of opportunity or the difference principle. Nor does it require a world state. Rather, it could be achieved through a plurality of territorial societies that might be quite diverse: some liberal societies might maintain secure access to the objects of human rights through pervasive use of judicial mechanisms, while some non-liberal societies could maintain secure access through other institutional arrangements more congenial to their cultures. All these societies could be free to adopt additional social justice goals for their national institutional order, provided these are suitably subordinated to the pre-eminent institutional goal of human rights fulfilment.

Our world is very far from realizing human rights, as billions of people, mostly in the poorer countries, lack secure access to basic foodstuffs and safe water, to minimal clothing and shelter, to physical safety, basic education and healthcare, and to vital civil and political freedoms. The social justice cosmopolitanism I have sketched supports a critique of the status quo insofar as the massive human rights deficits it displays are institutionally avoidable. Social institutions are unjust insofar as they foreseeably contribute to an avoidable human rights deficit.

Many present institutional arrangements do so contribute. The organization of the North Korean economy foreseeably contributes to avoidable food insecurity in that

country, for instance. Similarly, the rules of the World Trade Organization (WTO) regime foreseeably contribute to the massive persistence of avoidable severe poverty in the world's poorer regions – by permitting affluent countries to 'protect' their markets through tariffs, quotas, anti-dumping duties, and huge subsidies and export credits to domestic producers, for example, and by enforcing costly intellectual property rights (IPRs) in seeds and essential medicines.

In the affluent countries, we typically see unfulfilled human rights abroad as an occasion for aid and assistance. We wonder whether we ought to do more to help and protect the poor and oppressed abroad and more also (as suggested by Rawls's 'duty of assistance') to enable their societies to govern themselves better. Social justice cosmopolitanism can relate us to the poor and oppressed abroad in a different way. Our failure is not merely that of helping too little, but that of designing and imposing transnational institutional arrangements that foreseeably produce and perpetuate avoidable human rights deficits on a massive scale.

Sympathetic to Rawls, a number of theorists have opposed this conclusion with the assertion that the concept of (social) justice does not apply to transnational social institutions – at least not yet. For Michael Blake (2001) the morally relevant difference between national and transnational institutional arrangements is that the former are coercive and the latter are not. He illustrates this point with a fable of two homogeneous societies consensually establishing trading relations. While the laws within each society are backed by coercion, the terms of trade are not coercive because either society is free to decline or discontinue this relationship. Blake concludes that it would not be morally objectionable for such trade to benefit those in the richer society much more than those in the poorer one.

Letting the fable stand, let me note that matters are importantly different in the real world. Consider, for instance, the ongoing globalization of IPRs through the WTO and many bilateral treaties. Such IPRs, typically held by corporations in rich societies, are effectively enforced worldwide. Citizens of WTO member states are coerced into compliance with the international IPR regime just as they are coerced to comply with purely domestic rules and regulations. This coercive element is an integral part of the global IPR regime, explicitly prescribed in it and fully intended by those who design and uphold it.

The coercively imposed global IPR regime has dramatic effects on individuals. Insofar as it requires the manufacture and sale of generic drugs to be prohibited and suppressed, for instance, it deprives many poor patients of access to existing life-saving medicines. It would seem then that – by Blake's own standard – some important actual international institutional arrangements are subject to social justice assessments. There is no morally relevant difference between *one* government coercively imposing certain rules on the people within its jurisdiction and *a group* of willing governments coercively imposing such rules on the people within the union of their jurisdictions.

Thomas Nagel (2005) gives a more complex reason for supposing that national social institutions are, and international social institutions are not, subject to requirements of social justice: unlike transnational social institutions, he holds, a national institutional order is imposed *with coercion claimed to be legitimate, in the name of its participants* (putative joint authors of these rules or at least intended beneficiaries), *with an expectation of acceptance of this order*.

To see how this line of thought is implausible, consider that national regimes may lack all three of these features: a ruler or ruling group may coercively impose its rules *without* claiming to be entitled to do so, *without* any pretension of ruling in the name of its subjects, and *without* any expectation that these subjects ought to accept the authority of the rules imposed upon them. If the concept of social justice were inapplicable to a national society in this condition, the rules imposed by some of the very worst tyrants, colonial powers and occupying armies would elude the requirements of social justice. And all other tyrants, colonial powers and occupying armies would have a splendid opportunity so to exempt their impositions as well. Any moral conception providing this opportunity and incentive is clearly unacceptable if not obnoxious.

It is disputable, moreover, that the three features Nagel highlights are lacking in the imposition of transnational social institutions. The international IPR regime with its coercive aspects is elaborately defended both procedurally and substantively – as fairly arrived at and beneficial to all. This regime is administered by agencies (WTO; World Intellectual Property Organization, WIPO) within the United Nations system and under its *We the Peoples* motto. And strong moral language – ‘piracy’, ‘counterfeiting’, etc. – is routinely used to express an expectation of compliance.

I conclude that Rawls, Blake and Nagel have given no good reasons for exempting transnational institutional arrangements from any and all social justice assessments. The failure of their arguments leaves open the path to a cosmopolitan conception of social justice that makes certain widely sharable demands on the design of any institutional order – for example, that it must not produce massive human rights deficits or huge socio-economic inequalities that are foreseeably avoidable. Such a conception would assign human agents various duties of social justice, that is, duties in regard to social institutions: insofar as we share responsibility for the design of social institutions, we must work towards their just design. Insofar as we participate in just social institutions, we must comply with them. Insofar as we participate in unjust social institutions, we must promote their reform. Cosmopolitan conceptions of social justice will differ in how they specify social justice and in how they specify human agents’ duties of social justice on this basis. They will also differ in regard to whether human agents have a duty of social justice to help *create* just social institutions where none as yet exist – for example, in a state of nature. Kant assigned such a duty to any human agents who cannot avoid affecting one another.

Cosmopolitanism is often dismissed as a view that leaves no room for any kind of partiality towards family, friends or personal projects (Scheffler, 2001; Miller, 2002). Any plausible variant of cosmopolitanism must be able to distance itself from this caricature. Variants of social justice cosmopolitanism do so by distinguishing different domains of human life and then prescribing cosmopolitan impartiality for only one of these: for the design and administration of social institutions. The general idea of such a division by domain is familiar from the case of judges and referees who must be scrupulously impartial, but only when acting in their respective roles. This idea extends to the rest of the population. All adults are supposed to be impartial in certain domains – when we serve as jurors, certainly, and also when we speak, act or vote as citizens. Thus, no matter how much a mother may love her children and no matter how committed she may be to their having the very best educational opportunities and employment prospects, we (normatively) expect her citizen’s judgement on affirmative action

in the education system not to be influenced by her children's gender or skin colour. Similarly, we would condemn a compatriot who bases her citizen's judgement about the invasion of Iraq on her beliefs about how this invasion would affect her private investments. Insofar as citizens speak, vote and act *as citizens*, we are expected to be impartially guided by justice and the common good without regard to our personal projects and loyalties. Outside this domain, we may give greatly disproportionate weight to our friends, family and personal projects in deciding where to live, whom to marry, which career to pursue, and so forth – all this without in any way compromising our commitment to social justice.

Social justice cosmopolitans apply this idea more generally, beyond the nation-state: when human agents weigh in on the design of transnational institutional arrangements, they ought to set aside their personal projects and allegiances as well as their national loyalties so as to take impartial account of the interests of all individuals affected by these institutional arrangements.

Monistic Cosmopolitanism

According to social justice cosmopolitanism, injustice is *primarily* a property of institutional designs. Social institutions are unjust insofar as they foreseeably do worse by human beings than some alternative feasible institutional design would do. Human agents and their conduct can be called unjust in a *secondary* sense insofar as they violate their duties of social justice – by contributing to the design or imposition of unjust social institutions.

Monistic cosmopolitanism rejects this primary focus on the assessment of social institutions. It understands injustice as *primarily* a property of states of the world. This property is understood to supervene on properties of, or comparative relations among, human beings – one person's enslavement, for instance, or another's disadvantage from birth. Social institutions can then be called unjust in a *secondary* sense insofar as they contribute to injustice in the world. But social institutions are not unique in this regard. Human agents and their conduct, and all other causally relevant factors human agents may affect, can all be labelled unjust in the same *secondary* sense insofar as they avoidably contribute to injustice in the world. Monistic cosmopolitanism co-ordinates all human agents and all humanly shapeable factors towards one unitary goal: to make the world as just as we can make it.

The central contrast between social justice cosmopolitanism and monistic cosmopolitanism is that the former seeks to formulate a goal specifically for social institutions whereas the latter seeks a unitary goal for all iudicanda. This contrast in range is closely analogous to one much discussed in recent work on domestic justice. Rawls has formulated a goal meant to guide only the design of a society's major social institutions. Various critics (Cohen, 1997; Murphy, 1996) have rejected this focus as incoherent. They argue that if the goal specified in Rawls's principles of justice is one that social institutions ought to be designed to promote, then it must be worth promoting and thus valuable. And if it is valuable, then it ought to be promoted not merely through a society's institutional order, but also through its culture as well as by its associations and citizens in their personal lives. If the goal specified by the difference principle is the

correct goal for the design of a society's economic order, then it must also be the correct goal for social customs and conventions, for corporations, churches and organizations, and for individual economic agents: workers, consumers, investors, employers and executives.

Let me respond to this critique in two phases, showing *first* that the contrast is not as important as it may appear and then *second* that social justice cosmopolitanism escapes the threat of incoherence.

The contrast is less important than it appears because the way social institutions are shaped has very profound implications for iudicanda of all other kinds. One such implication has already been discussed: a conception of social justice focused on institutional design entails duties of social justice for all human agents in regard to social institutions. In addition, many of the most profound effects of institutional design on individual human lives are indirect. For example, the institutional order of a society influences its culture and conventions and, partly through these, the values and dispositions of its citizens. These indirect influences *of* institutional design must be taken into account *in* institutional design. Therefore, even if the moral standard guiding institutional design is not used for shaping iudicanda of other kinds directly, this standard will nonetheless have a considerable indirect impact on them. If a good design of the global institutional order maintained a very high level of human rights fulfilment and a reasonably balanced socio-economic distribution, it would do so in large part indirectly, by shaping political decisions and policies, cultures and conventions, values and dispositions (Pogge, 2000, pp. 164–5).

As for the remaining divergence, the anti-monism of Rawls's theory and of social justice cosmopolitanism can be defended against the charge of incoherence. One way of doing this appeals to the desirability of an *overlapping* rather than comprehensive consensus. It is highly desirable that those living together under a shared institutional order should morally agree on its design. Such morally based agreement presupposes a shared moral standard in light of which this institutional order can be justified and adjusted. Morally based coexistence does *not* presuppose, however, that people agree on all other aspects of morality – on what makes a human life worthwhile, on the best ways of shaping friendships or family life, on how to run religious organizations. Insofar as comprehensive moral agreement across all iudicanda cannot be achieved in the modern world without massive coercion, there is good reason then to agree on respectful disagreement insofar as such disagreement can be accommodated within a single institutional framework supported by a shared moral standard.

But how can we respect communities and citizens who endorse with us a certain goal (or system of goals) G for the domain of institutional design and then endorse some different goal(s) for other domains of human life? Endorsement of diverse goals for different domains need not indicate either incoherence or lack of real commitment. Morally important goals may be such that some iudicanda are good at promoting them and others not. This suggests a division of labour: some kinds of iudicanda are to be heavily devoted to a certain goal while others may largely ignore it. For example, the rules of the tax code are especially suitable for moderating socio-economic inequality – while individuals in their roles as customers, workers or managers are very poor at this task. It may then make good sense to design the tax code with extra heavy devotion to this goal while, in compensation, relieving economic agents from the responsibility

to consider it in their ordinary market transactions. It is entirely possible that the goal of moderating socio-economic inequality is best achieved by subjecting the design of the tax code to the powerful demand of Rawls's difference principle while asking of economic agents only that they politically support and personally comply with the optimal tax code.

Relatedly, goals are sometimes best achieved through iudicanda aiming at different, even conflicting goals. Thus, an efficient resource allocation may be best achieved in a market system whose participants do *not* aim for it. Punishment of all and only the guilty may best be achieved through a criminal justice system that involves defence lawyers working *against* such punishments. These considerations break both links in the incoherence argument: the fact that some class of iudicanda ought to be directed towards a certain goal does not show that this goal is of any ultimate importance. And the fact that some goal is of ultimate importance does not show that all iudicanda ought to be devoted to it.

These considerations do not merely defend social justice cosmopolitanism against the charge of incoherence. They also indicate a problem with monistic theorizing: there is not one goal or system of goals that can plausibly be assigned to iudicanda of all kinds. This is so not merely because iudicanda differ in what they are good at promoting, but also because it would be morally offensive to try to shape mothers, say, to be animated by the same impartial concern for all children that we rightly expect from social institutions. By calling for all iudicanda to be devoted to one common goal, monism indeed falls prey to the complaint that it leaves no room for any kind of partiality towards family, friends or personal projects.

Monism can avoid this problem by understanding differently the role it assigns to the common goal it postulates. So far, we have thought of this role inspirationally, of the goal as a common object of overt commitment. Such a *supergoal* is one to which all iudicanda ought to be devoted – a goal that animates human agents to strive to serve it and one that is recognized and celebrated in our culture, conventions, laws and institutional order.

The other way of making a goal normative involves an instrumental relation. Employing this understanding, monism would demand not that all iudicanda be overtly committed to one common goal, but that their respective overt commitments be shaped so that these iudicanda optimally co-operate towards fulfilling one common goal which, so understood, I call the *mastergoal*. As is well known from discussions of utilitarianism, a mastergoal may not be optimally fulfilled through overt devotion: happiness will not be maximized by devoting all to happiness maximization – and analogously for other mastergoal specifications. A mastergoal is then likely to entail that the various iudicanda be overtly devoted to different and possibly diverse goals.

Such differentiation of goals is welcome insofar as it allows reconciliation of an impartial common goal with partiality of some (and impartiality of other) iudicanda. The optimal co-operation of all iudicanda towards fulfilling the impartial mastergoal may well permit or even require that individual human agents be biased towards their own family, friends or personal projects. This is so because human beings – children, for instance – tend to thrive better with focused love from a few than with impartial concern from billions of adults (Goodin, 1988). Similar inspirational departures from the common goal may be licensed for other iudicanda as well: our culture, conventions,

laws and institutional order need not be shaped overtly to recognize and celebrate the mastergoal. Rather, each iudicandum ought to be shaped and designed in whatever way will cause them all optimally to co-operate towards fulfilling the mastergoal.

But this reconciliation is problematic in two ways. What approval it bestows on our personal loyalties and commitments is half-heartedly instrumental: a mother's love for her own children is a good thing – but only because and insofar as such love contributes to, or at least does not detract from, the justice of the world impartially conceived. Moreover, such approval is also precariously contingent: it is entirely possible that a very different division of devotions across iudicanda would – now or in the future – do better by the impartial mastergoal. If so, monism would mandate that our social world be re-engineered so as to inculcate the combination of optimal commitments in human beings and all other iudicanda we can affect. Persons, associations, human conventions, cultures and subcultures – the worlds of art, music, sport, cooking, poetry, tourism – all ought to be fine-tuned so that they, together, optimally promote the mastergoal.

These rather totalitarian implications of monistic cosmopolitanism can be mitigated. One can specify the common goal not as an optimum (such as the largest attainable aggregate happiness or the most equal attainable distribution of freedom), but as some comfortably attainable threshold. An example would be a sufficientarian conception that regards justice on earth as fully achieved when all human beings worldwide have secure access to the objects of their human rights. Such a specification would leave open many diverse ways in which iudicanda might permissibly be shaped – the universal fulfilment of human rights is compatible with a wide diversity of cultures, partialities and modes of economic organization.

This mitigation may render the goal of justice on earth implausibly modest, however. Can we really accept as fully just a world in which the poor (though their human rights are fulfilled) have such inferior opportunities that the gap between them and the more affluent is inexorably increasing beyond all reasonable bounds? A further problem with the mitigation is that it cannot solve the problem in a world like ours, which, due to widespread non-compliance, displays massive human rights deficits. In such a world, partiality towards family, friends or personal projects is not for the best, impartially conceived. The basic human rights of children worldwide would be better fulfilled, for instance, if the partiality of the more affluent adults towards their own children were greatly reduced in favour of impartial concern for all children. This point remains valid even when 'receiving love from one's own parents' is incorporated into the mastergoal: in a world like ours, affluent adults can add far more such love by combating the destructive influences of disease, starvation and overwork on poor families than by giving love to their own children.

Seeing that mastergoal cosmopolitanism offers little prospect for a plausible moral theory that can accommodate the partiality objection, one may be tempted by a dilution of supergoal monism. The basic idea is to affirm that all iudicanda should be devoted to the cosmopolitan supergoal without affirming that this must be their only goal. Human persons, for example, should be inspirationally committed to justice on earth impartially conceived, but may also have other morally mandatory or worthwhile or at least permissible goals besides. Among these other morally acceptable goals are agent-relative ones that lead persons to show special concern for their loved ones

and personal projects. Showing such special concern, persons are *permissibly* compromising cosmopolitan justice. So diluted, a common-goal theory is no longer monistic. With the dilution, certain additional goals are deemed permissible for human beings in order to leave room for partiality. These additional goals are not suitable for all iudicanda. And there will then, in a diluted theory, not be *one* goal or set of goals to which all iudicanda ought to be devoted or directed. Dilution thus trades away monism's attractive unity, simplicity and elegance.

Asserting merely that all iudicanda ought to be devoted to the cosmopolitan supergoal as one goal among others, diluted cosmopolitanism has precious little content. Dilution, after all, is a matter of degree: moral conceptions and persons become ever less cosmopolitan the more distant they are from full and exclusive devotion to the monistic goal of justice on earth – much like a man becomes ever less bald as we imagine hairs on his head to increase in length or number. People may have justice on earth among their goals even while this goal is routinely outweighed, marginalized or drowned out by other goals.

To have any bite, diluted cosmopolitanism must then be specified: by laying down what other loyalties and ambitions (moral or non-moral, personal, agent-relative or agent-neutral) are permissible for human beings and how much weight each may merit relative to the supergoal. And likewise in regard to all other iudicanda for which diverse competing goals are deemed admissible. A great difficulty here is to justify weights or weight limitations for the various competing moral and morally significant considerations. No moral theory along these lines has been worked out in any detail.

I conclude that monistic cosmopolitanism fails in both its supergoal and mastergoal versions. Whether a plausible moral theory can be constructed by diluting a variant of monistic cosmopolitanism remains to be seen. Compared to such a dilution, social justice cosmopolitanism enjoys the advantage of greater elegance. It restrains not the *strength*, but the *range* of the cosmopolitan goal. This goal applies only to the design of social institutions – but reigns supreme in this domain. Human agents are then to be guided by this goal indirectly: they must see to it that social institutions are appropriately related to the goal. Thus it is only in respect to their responsibilities in regard to social institutions that human agents must completely set aside their personal goals and agent-relative moral concerns (which is not to say, of course, that it would be wrong for them to promote the cosmopolitan goal in other ways as well – more on this in the next section).

Monistic cosmopolitanism is consequentialist in spirit. What ultimately matters is success in regard to the common goal. All iudicanda ought to be devoted (supergoal) or designed (mastergoal) optimally to contribute to such success. What a iudicandum's optimal contribution is depends on its impact on other iudicanda and on how its effects interact with those of other iudicanda. Whether a human agent ought to promote justice on earth by giving money to the poor, by supporting a political campaign in Uganda, or by helping to reform agricultural production in North Korea, say, depends then on expected impact alone, regardless of how the agent is related to the human beings potentially affected by her conduct.

Social justice cosmopolitanism, by contrast, because it renounces the idea of a common goal, coheres well with a non-consequentialist understanding of morality. It can assign agents an especially weighty responsibility in regard to social institutions in

whose design or imposition they participate, thereby rendering the concern for social justice agent-relative. And it can also (as we have seen) give greater weight to harms that social institutions require or authorize than to harms they merely engender or fail to prevent. Monistic cosmopolitans reject the incorporation of these two non-consequentialist elements along with the confinement of impartial concern for the interests of all human beings to the domain of institutional design. They might protest as follows: all these elements detract from the optimal promotion of justice on earth. What if the greatest injustices in the world, and ones that I could well mitigate, are not traceable to social institutions in whose design or imposition I participate? Social justice cosmopolitanism then perversely implies that I should focus on lesser injustices that are so traceable.

Of course, the implication is perverse only on the assumption of a thoroughgoing consequentialialist morality. And this assumption is quite disputable. It is more fruitful for our topic, however, if we leave this well-known debate aside to examine instead how our two kinds of cosmopolitanism might differ in their implications for the actual world. This examination is especially important if we think of moral conceptions not as value theories covering all possible worlds but as cultural products with a practical social task.

In the actual world, the social justice cosmopolitans' focus on institutional design is not a significant limitation because nearly all serious harm that human beings suffer is, insofar as it is humanly avoidable at all, avoidable through institutional design. Social institutions are all-pervasive and profoundly shape the human world in large part through their influence on other iudicanda. Nor is it a significant limitation if agents give special weight to harms traceable to social institutions in whose design or imposition they participate. All the more powerful agents in a position to effect meaningful change are participants in a highly consequential global institutional network that is deeply involved in most of the great harms we are witnessing. As one example, I have already mentioned the global IPR regime with its dramatic effects on poor people's access to advanced medicines. Here global rules accepted by nearly all the world's governments *require* what obviously harms the global poor: that cheap generic versions of even life-saving medicines under patent must not be manufactured or sold without authorization from the patent holder. By incentivizing pharmaceutical innovation through monopoly pricing powers, the same rules also *engender* dramatic neglect of diseases that disproportionately affect the poor. Of the 1393 new medicines approved between 1975 and 1999, only 13 were specifically indicated for tropical diseases and, of these 13, five were by-products of veterinary research and two had been commissioned by the military.

Another example illustrates how the design of global institutions can do great harm by influencing profoundly how national regimes are structured. Consider the global rules *authorizing* any person or group holding effective power in a country – regardless of how they acquired or exercise it – to sell the country's resources and to dispose of the proceeds of such sales; to borrow in the country's name and thereby to impose debt service obligations upon it; to sign treaties on the country's behalf and thus to bind its present and future population; and to use state revenues to buy the means of internal repression. This global practice goes a long way towards explaining why so many countries are so badly governed. The practice enables even the most hated, brutal,

oppressive, corrupt, undemocratic and unconstitutional juntas or dictators to entrench themselves. Such rulers can violently repress the people's efforts towards good governance with weapons they buy abroad and pay for by selling the people's resources to foreigners and by mortgaging the people's future to foreign banks and governments. Greatly enhancing the rewards of *de facto* power, the practice also encourages coup attempts and civil wars, both of which often provoke opportunistic military interventions from neighbouring countries. And in many (especially resource-rich) countries, this practice makes it all but impossible, even for democratically elected and well-intentioned leaders, to rein in the embezzlement of state revenues: any attempt to hold military officers to the law is fraught with danger, because these officers know well that a coup can restore and enhance their access to state funds which, after such a coup, would still be replenished through resource sales and still be exchangeable for the means of domestic repression.

I conclude that most of the harm human beings suffer in our world could be avoided through reforms of the global institutional order for whose design and imposition all the more powerful human agents bear some direct or indirect responsibility. (Governments and inter-governmental organizations negotiate and impose the rules and thus are directly responsible; citizens, corporations and other associations influence governments and inter-governmental organizations and thus are indirectly responsible.) It is then not correct, in the world as it is, that social justice cosmopolitanism disconnects or diverts the more powerful human agents from the greatest harms suffered by human beings.

In fact, social justice cosmopolitanism may attribute *greater* moral significance to this connection. Monistic cosmopolitanism faults powerful human agents for doing too little to address the great injustices in the world. Social justice cosmopolitanism faults these agents for doing too much to contribute to these monumental harms. By contributing to the imposition of global institutions that, especially through what they require and authorize, foreseeably and avoidably cause great harms to human beings, powerful human agents are not merely letting harm happen, but inflicting it. The distinction between positive duties to avert harm and negative duties not to inflict harm is, to be sure, one that consequentialists find morally insignificant. Still, to those who do find it morally significant, the social justice cosmopolitan critique will appeal more powerfully.

Because most privileged and powerful human actors show very little concern, if any, for the great avoidable harms human beings suffer, some who do care may find themselves unable to effect any reform of global institutions that would render them less harmful. Social justice cosmopolitanism is not reduced to telling such agents that, if they cannot effect change through institutional reform, they need do nothing. Instead, it can affirm that those who contribute to the design or imposition of, or profit from, unjust institutions – even when they have no reasonable alternative – have a compensatory duty of justice. The more powerful human agents, affluent citizens in the rich countries, for instance, will be in this position. Even if we cannot effectively influence our government to help bring about meaningful reform of global institutions, we should at least make up for the benefits we derive from unjust global institutions and/or for our indirect contributions to the harms these unjust institutions cause. Through our taxes, labour, and in many other ways, we strengthen our state which then, with others, designs and imposes unjust global institutions in our name. And we often

benefit from such injustice. In doing so, we violate negative duties of justice, unless we compensate by also working to protect some of the victims of this injustice.

Ethical Cosmopolitanism

The foregoing discussion of monistic cosmopolitanism contains the reasons why a cosmopolitan conception of ethics is implausible. Human beings need to have the option, at least, to have special relationships with friends and family that cause their conduct to be at variance with the cosmopolitan requirement of impartiality. Similarly, collective human agents, such as cities, churches, associations and states need to have the option, at least, to show special concern for their members as against outsiders. So, ethical cosmopolitanism strictly conceived is a non-starter.

If individual or collective human agents cannot plausibly be required to have an *exclusive* commitment to a cosmopolitan conception of ethics, then the live question may seem to be one of degree: ought individual and collective human agents be *more* cosmopolitan than they are now by reducing, in their ordinary conduct, the difference between the concern they show for the interests of their nearest and dearest and the concern they show for the interests of distant strangers?

Martha Nussbaum (Nussbaum and Cohen, 1996) takes up these questions in her critique of US patriotism as celebrated by Richard Rorty (1998) and others. She explicates her critique primarily in regard to education: children should be taught that foreigners, too, are citizens of this world, equal to us in dignity and human rights. And they should also be taught concretely about foreigners, about the history, culture, problems and prospects of their societies. This point is also stressed and defended by Jeremy Waldron (2000), who associates (ethical) cosmopolitanism especially with the willingness to engage with those who are not members of our own community, culture and state, who do not share our own values and habits, in an open dialogue about how we might live well together in this one world we must share.

As can be learned from our examination of social justice cosmopolitanism, there is another way of restraining a cosmopolitan conception of ethics. Rather than reduce its *strength* (through dilution), one might limit its *range*. One might hold, for instance, that all human agents have certain most stringent negative duties not to harm human beings in certain ways – not to violate their human rights, let us say – and that these negative duties are exceptional in two ways: first, they are exempt from the moral privilege otherwise enjoyed by human agents to show greater concern for the interests of the nearer and dearer. Holding circumstances fixed, it is perfectly acceptable to be far more willing to help a family member than a neighbour, a neighbour than a compatriot stranger, a compatriot stranger than a stranger abroad. But it is not acceptable to have such a sliding scale in one's concern not to violate human rights. It is not acceptable, for example, to take greater drink-driving risks abroad on the ground that those one is endangering there are only foreigners. In seeking to avoid violating human rights, any agent must give exactly the same high weight to the human rights of every human being. Human rights as side constraints on human conduct come with the same very strong imperative of compliance, regardless of how the agent is related to the potential victims of this agent's conduct.

The second exceptional feature of these negative duties is their exclusionary force. In decision contexts where these duties are in play, lesser reasons lose their standing. We described this model earlier in regard to certain public roles bearing on social justice. A public official, deciding among competing tenders, must not allow herself to be influenced *at all* by her own or her friends' financial interests. Her duty to make this decision for the public good is not one that, in virtue of its stringency, usually leaves her competing partialities with little influence on her decision. Rather, her duty is exclusionary by completely banishing such partialities from consideration. We can extend this model to human agents' duty to avoid violating human rights in their personal conduct. When this duty is in play, all reasons unrelated to human rights, even when they involve the agent's most cherished commitments, are to be left out of account.

This model provides a telling response to Miller and Scheffler, who assume that an agent's partialities must be dilutive: if special responsibilities and associative duties *increase* what an agent owes to some, then they necessarily *decrease* what this agent owes to others. For 'part of what it is to have [special] responsibilities to one's associates is to be required, within limits, to give their interests priority over the interests of non-associates, in cases where the two conflict' (Scheffler, 2001, p. 87). This is right, of course. But it does not follow from the fact that the agent owes outsiders less than she owes her associates that she owes outsiders less than she would owe them in the absence of her special commitments. For involvement in special relationships might increase what one owes one's associates without decreasing what one owes outsiders.

It may be objected that the increase and the decrease are inseparable. Owing greater consideration to some, one can no longer be required to give equal consideration to the rest. This objection succeeds if, in the absence of special relationships, human agents owe equal consideration. But this can be denied: it seems perfectly permissible for someone to help one needy stranger and not another (even when the latter's needs are somewhat greater), to give to one beggar and not to another, to pay one poor stranger's medical treatment and not another's, and so on. And one may do this because one likes the story of the one, or her face, or because one is in a good mood, or for no reason at all. In short, within certain limits one may give priority, in one's beneficial conduct, to some human beings over others even when there is no special relationship that could rationalize this unequal treatment. When a special relationship, say friendship with Jane, enters the picture, this moral discretion may disappear. One then owes it to Jane to help her in preference to a stranger. But this does not show that one has come to owe the stranger less if, even in the absence of the friendship, one would have been morally free to prefer Jane.

Maybe this response to the objection is too strong. Perhaps special relationships and projects *do* sometimes decrease what an agent owes to distant strangers. Even then, there could still be some duties to distant strangers whose stringency is wholly unaffected. One owes them just social institutions, whose design takes equal account of the interests of all human beings affected (social justice cosmopolitanism). And, pursuant to a plausibly restrained ethical cosmopolitanism, one also owes them the non-violation of their human rights.

Our world is very far from acceptance of these duties – let alone compliance. Those who design the rules of the world economy give more weight to the interests of the

100,000 richest shareholders in Europe and the USA than to the poorest 3 billion human beings. And governments habitually bomb foreign civilians to promote their policy objectives – not to speak of the grotesque human rights violations they have made routine since 9/11. Far from refuting cosmopolitan values, these facts show the urgency of better cosmopolitan theorizing.

References

Beitz, C. R.: *Political Theory and International Relations* (Princeton, NJ: Princeton University Press, 1979).

Blake, M.: 'Distributive justice, state coercion, and autonomy', *Philosophy and Public Affairs*, 30 (2001), 257–96.

Brighouse, H. and Brock, G., eds: *The Political Philosophy of Cosmopolitanism* (Cambridge: Cambridge University Press, 2005).

Brock, G. and Moellendorf, D., eds: *Current Debates in Global Justice* (Dordrecht: Springer, 2005).

Caney, S.: 'International distributive justice', *Political Studies*, 49 (2001), 974–97.

—: *Justice Beyond Borders* (Oxford: Oxford University Press, 2005).

Cohen, G. A.: 'Where the action is: on the site of distributive justice', *Philosophy and Public Affairs*, 26 (1997), 3–30.

Cohen, J. and Sabel, C.: 'Extra Rempublicam Nulla Justitia?' *Philosophy and Public Affairs*, 34 (2006), 147–75.

Goodin, R. E.: 'What is so special about our fellow countrymen?' *Ethics*, 98 (1988), 663–86.

Huxley, A.: *Brave New World* (New York: Harper 1998 [1932]).

Kant, I.: 'Zum ewigen Frieden', in Königlich Preußische Akademie der Wissenschaften, ed., *Kants gesammelte Schriften*, vol. 8 (Berlin: de Gruyter, 1923).

Kuper, A.: *Democracy Beyond Borders* (Oxford: Oxford University Press, 2004).

MacIntyre, A.: *Is Patriotism a Virtue?* The Lindley Lecture (Lawrence, KS: University of Kansas Press: 1984).

Miller, D.: 'Cosmopolitanism: a critique', *Critical Review of International Social and Political Philosophy*, 5 (2002), 80–5.

Murphy, L.: 'Institutions and the demands of justice', *Philosophy and Public Affairs*, 27 (1998), 251–91.

Nagel, T.: 'The problem of global justice', *Philosophy and Public Affairs*, 33 (2005), 113–47.

Nielsen, K.: 'World government, security, and global justice', in *Problems of International Justice*, ed. Steven Luper-Foy (Boulder, Col.: Westview Press, 1988).

Nussbaum, M. and Cohen, J., eds: *For Love of Country: Debating the Limits of Patriotism* (Boston, Mass.: Beacon Press, 1996).

Pogge, T.: 'Cosmopolitanism and sovereignty', *Ethics*, 103 (1992), 48–75.

—: 'An egalitarian law of peoples', *Philosophy and Public Affairs*, 23 (1994), 195–224.

—: 'On the site of distributive justice: reflections on Cohen and Murphy', *Philosophy and Public Affairs*, 29 (2000), 137–69.

Rawls, J.: *A Theory of Justice* (Cambridge, Mass.: Harvard University Press, 1999a [1971]).

—: *The Law of Peoples* (Cambridge, Mass.: Harvard University Press, 1999b).

Rorty, R.: *Achieving Our Country: Leftist Thought in 20th Century America* (Cambridge, Mass.: Harvard University Press, 1998).

Scheffler, S.: *Boundaries and Allegiances: Problems of Justice and Responsibility in Liberal Thought* (Oxford: Oxford University Press, 2001).

Seymour, M., ed.: *The Fate of the Nation State* (Montreal: McGill-Queen's University Press, 2004).
Tan, K.-C.: *Justice Without Borders* (Cambridge: Cambridge University Press, 2004).
Waldron, J.: 'What is cosmopolitan?', *Journal of Political Philosophy*, 8 (2000), 227–43.
Walzer, M.: 'The moral standing of states', *Philosophy and Public Affairs*, 9 (1980), 209–29.
Wendt, A.: 'Why a world state is inevitable', *European Journal of International Relations*, 9 (2003), 491–542.

Chapter 13

Feminism

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Feminism as a Political Movement

Feminism is a political stance more than a systematic theory. Political life forms its base: its goal is to change the world. Like Marxism, or any other movement aimed at political change, its thought is inextricably mingled with action. Unlike Marxism, an ideology initiated by a single man, feminism is essentially plural. It is thought derived implicitly from the experience of every woman who has resisted or tried to resist domination.

Three points follow. First, feminism privileges experience. A direct report of the way one perceives one's own experience has great weight with feminists trying to make sense of their world. Much of feminist theory is thus inductive, proceeding from the particular to the general. Second, feminism is not easily systematized. Its experiential plurality, proceeding from different experiences differently perceived, constantly undoes attempts to derive a full theory from a single point, or make all pieces fit a coherent whole. Finally, feminism makes the personal political. Real experiences of gender domination cut across the formal lines that divide the public from the private sphere. They require for their explanation a political theory that assumes the interpenetration of these spheres.

Throughout its plurality, feminism has one obvious, simple and overarching goal – to end men's systematic domination of women. Feminist theory also has one overarching goal – to understand, explain and challenge that domination, in order to help end it. As feminist theorists carry out this project, their conclusions often illuminate political philosophy more broadly. The central ideas of great Western thinkers appear differently after feminist critiques. Familiar political concepts take on new or additional meanings in the light of women's experiences. Feminist theories, based on women's experiences, support a different, or differently nuanced, view of the relation of self and other from those traditionally central in Western philosophy. Women's experiences of sexual violation bring power and the effects of system-wide domination into the most private aspects of interpersonal relations.

Differences among feminist theorists stem both from intellectual differences in interpretation and from differences in experience. An early classification scheme in the United States divided feminists into 'liberal feminists', 'radical feminists', 'Marxist feminists' and 'socialist feminists' (Jaggar, 1983), in a way that accurately demarcated

important lines of intellectual difference but also indicated the intellectual and experiential milieux from which those feminists had usually come. In the same way, different experiences and intellectual milieux have produced 'cultural feminism' (usually used pejoratively, e.g. Echols, 1989) or 'relational feminism' (Offen, 1988), 'French psychoanalytic feminism' (e.g. Irigaray, [1977] 1985a), 'eco-feminism' (e.g. Diamond and Orenstein, 1990), 'lesbian feminism' (e.g. Bunch, [1972] 1987; Calhoun, 1994), 'black feminism' (e.g. Collins, [1990] 2000) or 'womanism' (Walker, 1983), 'Chicana feminism' (Anzaldua, 1987; Garcia, 1997), 'multiracial feminism' (Zinn and Dill, 1996), 'postcolonial', 'Third World' or 'transnational' feminisms (e.g. Narayan, 1997; Harding and Narayan, 1998; Sandoval, [1991] 2000; Mohanty, 1991; 2003), and Islamist feminism (Paidar, 2002). For East versus West German feminisms, see Ferree, 1997, and for two versions of Chinese feminism, Chun, 1997. Other experiences will undoubtedly produce other forms and terms, often challenging the unconscious assumptions of earlier versions of feminism, particularly as women in countries with traditions different from those in the West develop their own theoretical understandings.

In the past few decades it has become especially clear how deeply the feminism of all individuals rests on their own cultural, ethnic, religious, class, sexual and individual pasts and projected futures. In most cultures, women in dominant groups are likely to articulate feminist principles first. Thus lesbian feminists had to hammer home within a predominantly heterosexual set of feminist theories the point that heterosexual oppression differs from patriarchal oppression. Similarly in the United States many women of colour, hearing experiences antithetical to their own described simply as 'women's', relived the familiar experience of exclusion, more bitter in a movement and set of philosophical stances that they wanted to embrace. The same process has been repeated in transnational organizations and across the globe. Today many feminists who are not heterosexual, white, middle-class, or 'Northern' have won a significant space in the public dialogue and, with the spread of feminism internationally, some have acquired significant power as well. Others are still cut off from public space, unable to 'speak' and be heard outside their own arenas (Spivak, 1988; 1996). As each new group begins to speak, its members will articulate perspectives and create divisions as yet unrecognized in feminist debate.

Questions of policy continue to divide feminists, over both ends and means. In the United States, although feminists presented a relatively united front during the suffrage struggle, after winning the vote in 1921 they divided on whether or not to support a constitutional Equal Rights Amendment, which would have eliminated many of the special protections for women that the left had achieved in part as a substitute for the more far-reaching protections European labour had been able to secure for both men and women workers. They divided on whether or not to support the prohibition of alcohol, which many correctly saw as a major cause of wife and child battering. They divided on whether or not to support world peace by advocating disarmament and draft resistance. In the 'second wave' of the women's movement in the United States, which began in 1968, the movement similarly divided on tactics (whether to focus on an Equal Rights Amendment or other issues, whether to work through government or direct action, whether to work with men or without them, whether or not one could commit oneself to women's causes while engaging in a heterosexual relationship) and on the analysis of root causes (class or race versus sexual oppression). Other divisions

have pitted opponents of pornography against those who make free speech an absolute right and proponents of special protections for women against the proponents of formal equality. In the academy, postmodern or post-structuralist feminists stress differences between women and the unsettled, relative quality of all thought, while others stress concurrences in women's experiences and the need for some relatively settled understandings of rights or justice in order to better the conditions of women.

In the Near East and Africa, feminists divide on opposition to specific practices, such as clitoral excision and infibulation or the veil. Muslim feminists divide on whether or not some aspects of their religion support feminist principles. Chinese feminists divide on whether or not to protect wives by making divorce more difficult. In Latin American (and some African) countries marked by 'motherist' resistances to militarism, feminists divide on whether or not women can bring purity into political life through their essence or experience as mothers. In developing nations, feminists divide on whether to stress 'strategic' gender interests, which explicitly try to change the relations between the sexes (for example, by creating all-women police stations for reporting violence to women) or 'practical' needs, in which women organize as women to get goods in a way that does not directly challenge gender relations (for example, organizing as women to get water for a village) (Molyneux, 1985; 2001). Particularly in countries where the state is highly militarized, feminists have divided on the advisability of working with the state to achieve their ends. In many countries, women and women's groups are divided by religion, ethnicity, political affiliation, allegiance to a particular leader or organization, social class and structural position (cf. Mohanty et al., 1991; Basu, 1995).

Georg Simmel ([1908] 1955) once observed that similarity often generates hostility, thus provoking in any large-scale movement the tendency to split into warring sects. This tendency seems less exacerbated within the feminist movement than within most past progressive movements, perhaps because of the weight feminists give to voices speaking from their own experience. Because many advances in feminist thought have come from women collectively talking with one another and trying to make sense of their experiences, differences in those experiences are somewhat more likely than in other movements to be taken as food for thought rather than as attacks on a tightly held previous position. Some of the best feminist research on anti-feminism proceeds from a genuine desire to understand the anti-feminists' own perspective as women. In the United States today, moreover, affiliating with 'feminism' is almost as respectable as affiliating with either of the mainstream political parties. In a 2001 survey, more than a quarter of the US women sampled responded affirmatively to the question, 'Do you consider yourself a feminist?' (Gallup, 2001), only slightly fewer than responded affirmatively to 'Do you consider yourself a Republican?' or 'Do you consider yourself a Democrat?' Encompassing this many women in a large and diverse nation requires a broad definition of feminism, bounded by the single goal of equality between men and women. The meaning of feminism in political philosophy is almost as broad.

Feminist Critiques of the Canon

Feminist social science and political philosophy begins with three central questions: 'How did male domination arise?', 'Why was it so widely accepted?' and 'What are its

consequences?' How, until recently, have men managed with a semblance of legitimacy to exclude women from formal politics in almost every tribe, state and civilization on the globe? And what are the current implications of this history for women, for human relations, for philosophy and for politics?

The collective understandings that justified the universal exclusion of women from politics – with occasional exceptions, as for orderly succession in a ruling family – must have been extraordinarily powerful. Not yet recognized in all their force, they continue to work unperceived on our ways of interpreting reality, particularly political reality. Because no one can think without incorporating some of these understandings, it is a major task of feminist political philosophy to uncover and open them to conscious, public scrutiny.

A few examples from the feminist critique suggest the extent to which recognizing the assumptions about gender of major Western political thinkers sets in relief the foundations of their thought, clarifying the problematically close connections between that which is liberatory and that which is harmful today for women and for men.

Take the moment that launched political philosophy as a separate branch of Western philosophy, when Aristotle enshrined the *polis* as the most sovereign, final and perfect of associations, directed to the most sovereign good, a good life. This moment coincided with and depended on his definition of the household as 'other'. The subsequent enterprise of political philosophy, which looked to the 'political' for the culmination of human development, continued to define the political in explicit contradistinction to the realm of women. An understanding of the 'political' as both 'supreme good' and 'not-household, not-woman' continued to undermine women's contributions to political thought long after most people rejected Aristotle's conclusion that women were naturally inferior to men.

Take the famous sentence that introduces Rousseau's *The Social Contract:* 'Man is born free, but everywhere he is in chains.' Women's experience, expressed in feminist thought, makes that sentence seem presumptuous nonsense. Human beings are born to mothers and fathers who are not morally free to abandon them (as Rousseau did his children) any more than the children are physically free to live on their own. Some chains are there, for both parties, at birth.

Take Rousseau's enduring goal, which feminists have reworked to mean that with and through others people should, as they grow, begin to give to themselves the laws that bind them. To realize this goal, feminists can borrow carefully from Rousseau's ideas on development and his own hated experience with submission, but must attend even more carefully to the way his 'will' is often intertwined with power. In *Emile,* the first text in progressive education and the book that would launch the Romantic Movement, Rousseau educated young Emile to natural honesty, an uncorrupt appreciation of natural virtue and a capacity to give the law to himself. He educated young Sophie to be Emile's wife, that is, to obey. Rousseau, the egalitarian radical, argued in this pre-Romantic text for the relatively new idea that sex ought to require the woman's 'consent'. How should the powerful determine this consent? Sophie should be taught, when she means 'yes', to say a modest 'no', and Emile taught to read not her words but her body movements for her answer. On the grounds that nature gave women enough strength to resist whenever it pleased them to do so, Rousseau concluded that in the ordinary case no 'real' rape was possible. As elsewhere in his philosophy, he

considered explicit consent less important than the underlying will, which in this case men, not the women themselves, would interpret (see Pateman, 1989).

Take again Rousseau's appealing strictures on the falseness of court and salon. These, we now see, were aimed particularly at women. His words stripped legitimacy from the women who, barred from any formal political role, had come by force of intellect, political skill and birth to influence public thought and action in Paris and Versailles. In their place the Rousseauian post-revolutionary 'Republican mother' stayed at home to prepare her sons for republican virtue rather than contaminating the public stage. The faction and intrigue that Rousseau deplored (so much as to suggest that collective decisions would be better if citizens had no communication with one another) seems to have had a distinctly gendered cast (Landes, 1988; also Lange, 2002).

Take Kant's contribution to moral theory that only duty, based on reason, has 'true moral worth'. We now see that idea underpinned by a misogyny that facilitated the elision of the dichotomies 'reason/emotion' and 'male/female' (and implicitly, 'public/private'). Kant contended that although many minds are 'so sympathetically constituted that . . . they find pleasure in spreading joy around them', their actions, while amiable, proper, and deserving of 'praise and encouragement', do not deserve 'esteem' ([1785] 1949, pp. 15–16). Women, he had decided earlier, 'will avoid the wicked not because it is unright but only because it is ugly . . . Nothing of duty, nothing of compulsion, nothing of obligation! . . . They do something only because it pleases them . . . I hardly believe the fair sex is capable of principles' ([1763] 1960, p. 81). The gender coding of the constellations duty/obligation/reason versus sympathy/impulse/emotion facilitated a philosophical understanding that dichotomized the sources of moral action, dubbing the one of 'true moral worth', the other not worthy of esteem (Gould, 1976; Blum, 1982; Grimshaw, 1986; and by contrast Baier, [1987] 2002 on Hume).

Take John Stuart Mill's awareness of the great, damaging limits on women's liberty and self-development of established relations between men and women. Mill questioned the naturalness of differences between men and women in a way that was then astonishingly radical. Yet in one book he defended democracy on the grounds that participation in public affairs enlarges the self and hence the polity, while in another he assumed that most women would choose freely a domestic life in which such participation was sharply curtailed. Although thinking about democracy led him to advocate the vote for women, and thinking about liberty led him to see the constraints on development imposed by social convention, even Mill could not combine these insights to understand how the relations he categorized as fundamentally private could deeply influence political life (Pateman, 1989).

Take John Rawls's vision of a community bonded by public principles of justice arrived at by free, equal beings who are rational, self-interested, and know no particulars about themselves. Rawls realizes eventually that such a community must depend on families that give their members the emotional basis for empathy and the daily experience of domestic justice. But he cannot integrate that realization with his traditional philosophical reliance on the public/rational side of the gender-coded dichotomy (Okin, l989).

Take Robert Nozick's counter to Rawls – a justice based on who produced a good rather than who benefits most from it or what all parties would agree to if they did not know who would get what. Nozick's justice assumes that we own what we produce.

Women, who as childbearers and childrearers work hard to produce what they never expect to own, make nonsense of Nozick's assumption, as they do of Rousseau's. Production is and ought to be only one factor in the complex social construction of 'ownership' (Okin, 1989). (For feminist reinterpretations of other authors, see e.g., Fraser, 1990; Shanley and Pateman, 1991; Hirschmann and Di Stefano, 1996; Klinger and Nagl-Docekal, 2000; and others in the 'Feminist Interpretations' series.)

The sharp, repeatedly reinforced dichotomy between the domestic and the public, in which the public and male sphere defines morality and politics, is dangerous both for women and for the larger polity. To draw, for politics, from all the conceptual and experiential resources available to us as human beings, we cannot afford to slice off and discard the household.

The Personal is Political

To challenge the traditional dichotomies is not to deny all difference between public and private. When a woman first spoke the words 'the personal is political', and a hundred thousand others took up those words, realizing that what they had thought was their own individual, domestic, private problem was in fact structural, public and shared, their insights would have had no force if the words on either side of 'is' had exactly the same meaning. Challenging the dichotomy of public and private does not mean denying any distinction between the meanings of the words, demeaning the value of privacy, or making all behaviour similarly subject to state action. It does not repudiate the increasingly legitimate pressure, as one moves from individual to collective decision, to take the good of the whole into account. It does not mean arguing that the virtues appropriate for good action in private life, such as motherhood, are exactly the same as those appropriate for a sphere that deals primarily with partial strangers. The challenge does, however, mean seeing every action as potentially infused with public meaning. It means recognizing that the power that constitutes much of politics reaches into and begins with the smallest gesture of interpersonal domination, and that the reason that constitutes much of public persuasion is not so universal as to be untouched by assumptions, emotional connotations and linguistic patterns formed in the most private of relations.

Challenging the public/private dichotomy means insisting on the non-triviality, and the non-exclusion from central public debate, of intimate, domestic concerns. It means insisting that what goes on between a man and a woman in their home, even in their bedroom, is created by and in turn creates what goes on in legislatures and on battlefields. The causal arrow runs in both directions. The very existence of the private sphere, its acknowledged extent and limits, and the kinds of behaviour acceptable within it result from decisions made formally and informally in public, in legislatures, courts, bureaucracies, in print and on the airwaves. Public decisions create domestic inequalities of power. Private actions, in turn, create public inequalities of power. The people who make decisions in formal politics, from voters to legislators, develop their first political selves in private, domestic, familial settings. The domestic division of labour, which makes the care of children a woman's job, underlies the public inequalities between men and women. Acts of heterosexual courting encode patterns of

domination, as do some traditional acts of heterosexual intercourse itself (on private/public, see Elshtain, 1981; Dietz, 1985; Benhabib, 1988; Okin, 1989; Landes, 1988; Higgins, 2000; MacKinnon, 2006; on intercourse, see MacKinnon, 1987).

Stretching and breaching the boundaries of the traditionally political, feminists find allies among economic democrats who take as 'political' decisions in the workplace and the corporation, and with scholars in comparative politics who take as 'political' acts of informal resistance to established power. Marxist scholars have pointed out that boundaries between the public and private, and the law that frequently enforces those boundaries, benefit capital far more than labour. Feminist scholars point out that similar boundaries, and the law that reinforces them, benefit men far more than women.

'Sameness', 'Difference' and 'Dominance' in Rethinking Liberal Concepts

Feminists have taken three approaches to the issue of women's differences from men. One approach, completely compatible with liberal theory, stresses the sameness of the subordinate to the dominant group. This approach challenges the assumption that natural differences should generate different spheres in life and work or different insights in philosophy. A second approach, building on modal gender differences in the experience of intimate connection, challenges the central assumption in liberal political theory that the individual is essentially separate from, and in conflict with, others. A third approach, revealing the roots of political and economic domination in the most private of sexual relations, produces feminist reconceptualizations of liberal theory that focus on domination.

Feminist philosophy needs all three approaches. In gender domination, as in most other forms of domination, it is in the interest of the dominant group to exaggerate the differences between it and subordinate groups, deprecate the attributes associated with the subordinates, and obfuscate the effects of its own domination. In response, the subordinates need to emphasize sameness, lay claim to those attributes associated with their different experiences that their own lives reveal to be permanently valuable, and unmask the effects of domination. Each task is necessary. But the three tasks often work against one another, creating important splits in feminist philosophical thought.

Sameness

Most cultures prescribe strikingly different behaviour patterns for the two sexes. For example, among the Hansa in the mid-twentieth century, with rare exceptions only men prepared skins and only women milked, while among the Rwala only women milked and only men prepared skins (Murdoch and Provost, l973). Among the inhabitants of the United States in the same era, with rare exceptions only men filled cars with gasoline and only women taught kindergarten. Cultures prescribe different work, clothing, rituals, language and human nature for men and for women, thereby creating, enlarging and making more salient various aspects of male–female difference, in a process of 'gratuitous gendering' (Mansbridge, 1993). Because in all cultures gender is

highly salient, people code a great deal of information into the prevailing gender schema and remember information through that schema. Our written memory is also biased, because, as with other differences in the social sciences, journals publish studies that show a difference between men and women more than studies that show no difference (Epstein, 1988).

Yet the deeper the chasm between the genders, the more unthinkable it is for women to lay claim to male privilege. Feminist social scientists and philosophers must accordingly continue to draw attention to the accumulating evidence that shows no difference between men and women on traits on which the two have traditionally been thought to differ (Hyde, 2006).

The task of stressing sameness is complicated by our present ignorance of the exact extent or import of biological differences between men and women. Most philosophers no longer give biological differences between men and women, or between one race and another, the importance that earlier generations attributed to them. That an impulse is 'natural' does not make it either good or ineradicable. To meet social ideals societies usefully spend a great deal of effort modifying natural impulses, such as the impulse to defecate spontaneously. The recent demonstration that the social environment can deeply affect human hormones and similar biological mechanisms also removes some of the aura of immutable primacy previously attributed to biology (McClintock et al., 2001). In addition, technological changes in production and reproduction have made it possible for men and women to do almost all of one another's traditional work, so that productive efficiency now militates against traditional divisions of labour. Finally, several decades of psychological research have proved unfounded many previous convictions regarding differences in men's and women's abilities. If there are some biologically based aptitudes for, say, childrearing that differentiate on the average between men and women, we need to find out what these aptitudes are, in what contexts they have important effects, and how they can be measured directly rather than by using gender as a proxy. Although the experience of many men raising children without noticeable ill-effects suggests that such differences as may exist are probably small, we do not yet know enough to be more than agnostic about the full effects of biology, or more generally what differences between the sexes might remain in a feminist world.

Difference as 'connection'

When the dynamics of dominance and subordination cleave the salient experiences of a culture into two, widening the chasm between them, some valuable human experiences will be thrust into the subordinate side of the cleavage and derogated accordingly. Even if the cultures were genuinely separate but equal, a contemplation of human experience that drew on only one side of the divide would be deprived of insight. 'Difference', 'cultural' or 'relational' feminists, who draw philosophical lessons from women's experiences with intimate connection, seek both to redress the traditional derogation of ways of being or thinking associated with women and to add experiences from the 'women's sphere' to the pool from which abstract thought can draw.

Anglophone feminists who mine women's cultural differences from men for insight rarely contend that women's virtues have a biological base (for an exception, see e.g.

Rossi, 1977). French feminists in the psychoanalytic tradition are more likely to root their theories in bodily differences, seeing women as more fluid, less separate from their bodies, more interrelational than men. Their understanding of the body, however, is more symbolic than biological. Luce Irigaray (1985a, pp. 24ff.), for example, makes women's genitals, their 'two lips', the basis of '*parler femme*', speaking (as) woman, a way of speaking and thinking that, in opposition to Lacan's 'phallus', captures both-at-once, plurality, limitlessness and activity-with-passivity. Irigaray widens the differences between women and men, making masculine and feminine 'syntaxes' 'irreducible in their strangeness and eccentricity one to the other' (Irigaray, 1985b, p. 139), and insists on the 'most basic and universal' quality of 'two', the two sexes, in contrast to the dominance of the male but also to multiplicity (Irigary, 1996; 2004). Accordingly, even feminists who agree with her stress on the problems inherent in speaking as woman in a man's world have attacked her for 'essentialism', that is, assuming first, that there is one way of being 'woman', singular, which is closely linked to, if not founded in, biology, and second, that the binary male and female are the only sexual possibilities. Others have defended her against these charges (Fuss, 1989; Brennan, 1989; Berg, 1991; Schor, 1994; Cheah and Grosz, 1998; Song, 2005).

One can recognize the malleability, plurality and multifaceted quality of both biological sex and social gender and nevertheless not want to discard, in order to claim full equality, the special virtues that men have accorded women in the Western tradition. 'Cultural' or 'relational' feminists who take this stance have instead rejected gender-based dichotomies, calling on men to assume the 'female' virtues along with the 'male' in their individual characters and political ideals. In the late 1970s, feminist thinkers in the psychoanalytic tradition rooted certain traditional women's virtues in the experiences of early childhood (Dinnerstein, 1977; Chodorow, 1978). Carol Gilligan's study of moral development adopted much of this analysis, arguing that 'masculinity is defined through separation while femininity is defined through attachment' (Gilligan, 1982, p. 8). Gilligan's investigations of women's responses to moral dilemmas suggested that highly educated American women were more likely to define themselves 'in a context of human relationship' and less likely to adopt a 'rights' orientation to moral questions than highly educated men. The women who so defined themselves were not lower in a scale of moral development, as Lawrence Kohlberg's (1981) work had suggested, but rather had developed, along with some men, an approach to morality that emphasized maintaining and enhancing relationships rather than rights. Many individuals, of course, take both approaches, being able to see a question from the other perspective when asked, 'Is there another way you could look at this?' (Gilligan et al., 1988). Conceptually, 'rights' and 'relationships' approaches are not mutually contradictory (Flanagan and Jackson, 1987; Sher, 1987; Okin, 1990; Tronto, 1996).

The finding of Gilligan and her students (1988) that moral orientations may tend to differ by gender seems to appear only among the most highly educated groups in American society, and probably also most strongly or only when the context facilitates taking traditional gender roles (Mansbridge, 1993). When studying empathy, which both Chodorow and Gilligan link with women's deeper attachment to relationships, researchers find no physiological differences between men and women in situations that might provoke empathy (such as heart rate on hearing a newborn cry), but do find

that the more the individual studied knows that empathy is being measured, the older the individual is, and the more attached the individual is to gender stereotypes, the stronger the relationship appears between gender and empathy (Eisenberg and Lennon, 1983). Studies of gender and emotion follow the same pattern (Fischer, 2000).

Although the empirical studies do not demonstrate any large differences between the normative orientations of most men and women even in American society, these studies do draw attention to the deeply gender-coded nature in that society of the dichotomy 'separation versus connection'. The researchers who cannot duplicate Gilligan's findings still find differences in the way most Americans code the two approaches, with both men and women rating Gilligan's 'care' or 'relationships' orientation as more feminine and the 'rights' orientation as more masculine (Ford and Lowery, 1986). These ratings are consonant with the typical coding of women as 'emotional' and men as 'rational' in English-speaking countries and to a lesser degree in most other countries (Williams and Best, 1982). In the United States the 'communal' goals of 'selflessness, concern with others and a desire to be at one with others' are associated with the household, and therefore with women more than with men. Taking their cue from task rather than gender *per se*, American students rate 'male homemakers' higher on these communal goals than 'female office workers' (Eagly and Steffen, 1984; Wood and Eagly, 2002).

Feminist theorists who emphasize 'connection' or 'care' refuse to relinquish the virtues associated with intimate connection simply because they have been coded as female. Their strategy is, instead, to draw attention to the deep gender-coding of philosophical concepts, and to use their gendered familiarity with intimate connection and care giving – as daughters, mothers and women friends – to stress the moral centrality of care (Clement, 1996; Held, 2006) and to reformulate central concepts in Western democratic theory.

Autonomy in classical liberal theory, for example, is achieved by 'erecting a wall (of rights) between the individual and those around him' (Nedelsky, 1989, p. 12). The experience of familial connection suggests a contrasting model of autonomy, in which the capacity to act for oneself and give law to oneself is nurtured through relationships with others. In this feminist reconceptualization of autonomy, the boundaries of the self are permeable, with others an inevitable part of self (Nedelsky, 1989; see also di Stefano, 1996).

Obligation in the liberal tradition is voluntarily assumed. The experience of mothering suggests that many obligations begin as given, part of the embedded fabric of established mutual relationships, and are subsequently negotiated to provide space for separation, as needs, capacities and preferences change (Hirschmann, 1989).

Similarly, in the liberal tradition negative freedom is primordial, the starting place. Liberal interaction begins with a negative, the absence of impediments to motion, and stresses processes, such as contract, that create connection out of separation while retaining as much as possible of the original valued independence. By contrast, the experience of mothering begins with connection and stresses processes, such as personal growth and negotiation, that create negative freedom out of connection while retaining as much as possible of the original valued relationship (Hirschmann, 1989; Held, 1990; 2006). The liberal tradition stresses independence; feminist theories of care stress dependence as a central human experience (Kittay and Feder, 2002).

In the liberal tradition, power means getting others to do something through the threat of sanction or through force, assuming conflicting interests (Lukes, 2005). Feminists in feminism's 'first wave' in the United States drew from domestic experience a politics of persuasion – leading others to act differently through an appeal to long-run self-interest, duty or empathy, assuming that on some issues common interests exist or can be created (e.g. Hannah Mather Crocker in Botting and Houser, 2006). Between the waves of feminism, female thinkers explicitly enunciated non-coercive understandings of power: Mary Parker Follett ([1935] 1942), who first coined the term 'power with' in contrast to 'power over', Dorothy Emmett (1953–4) and Hannah Arendt ([1963] 1965). Finally, feminists in the early 'second wave' redefined power as not only coercion but also 'energy, strength and effective interaction', as they designed their small collectives on the principles of friendship (Hartsock, 1983; Allen, 1999).

Feminists in non-Western traditions may not need to draw as strongly from the perspective of connection to criticise their received conceptual apparatus, as most of their intellectual traditions do not adopt in the first place a thoroughgoing individualism that sees the self as fundamentally separate from others, obligations as voluntarily assumed, negative freedom as primordial, and politics as based on power. Yet other insights drawn from the domestic realm may in the future undermine as sharply the bases of non-Western traditions.

Dominance

In addition to providing experiences of connection that contradict central elements of the liberal tradition, the domestic realm also provides experiences of conflict which that tradition rules off limits to political scrutiny. Activists in almost every culture on the globe have adopted this element of the feminist critique, raising to visibility conflicts previously obscured through male domination, although how the critique plays out in any culture depends on the insights of the women in that culture.

Some of the conflicts that emerge in the domestic realm are sexual. Through compulsory heterosexuality (Rich, 1980), women are rewarded for defining their own needs in ways that please men and are punished for resistance. Sex itself is defined as leading to male climax. Catharine MacKinnon (1989, p. 113) argues that because men's dominance of women is sexualized, it is not possible to separate gender roles from sexuality: 'Sexuality is gendered as gender is sexualized. Male and female are created through the eroticization of dominance and submission. The man/woman difference and the dominance/submission dynamic define each other.'

Male power affects, in blatant and in subtle ways, almost every form of male/female relations, including the most private relations that enter into the everyday making of oneself. Feminist analysis of this power can be inspired by Karl Marx's recognition that the ideas of a culture are the ideas of its ruling class, Antonio Gramsci's concept of hegemony, Bachrach and Baratz's (1963) 'non-decisions' that set the intellectual agenda by ruling out the contemplation of alternatives, and Michel Foucault's (1980) capillary power, which runs through the smallest veins of the system. Feminist analysis takes power even deeper, into the creation of self. 'No woman escapes the meaning of being a woman within a social system that defines one according to gender' (MacKinnon, 1989, p. 38).

Postcolonial feminists and feminists of colour have developed the feminist understanding of how external power suffuses one's own construction of one's self. Recognizing that what a woman sees in a mirror is often what male attention has made salient, prized or seen as inadequate in their own eyes through that male valuation, black feminists have revealed further how in a racist society gender is intertwined inextricably with race. Although the images of a slender ankle or tiny foot arched into a high-heeled shoe do not oppress differentially by race, most 'feminine' attributes have in the United States a racial component as well: fair skin, blue eyes, blonde hair. As Michele Wallace wrote of childhood games she played with her sister, 'Being feminine *meant* being white to us' (Wallace, [1975] 1990, p. 18; also Harris, 1990; Collins, 2000; Springer 2002). Particularly in the American South, femininity meant white pale weakness and delicate frailty, having to be helped from a chair or through a door, in contrast to the black woman slave, valued for doing the work of a man (Carby, 1987). The images black women have had to scrape from their souls – the mammy, Jezebel or Sapphire – were not the images white feminists needed to fight (Collins, 2000). Institutions reinforce these patterns of domination, as courts or unions, for example, recognize the categories of black and woman, but cannot respond adequately to discrimination against individuals at the intersection of these categories, and activists or journalists fail to address the rapes of black women (Crenshaw, 1989; 1991). Postcolonial writers have greatly expanded upon the feminist realization that political oppressions infiltrate and help define the self.

These manifestations of power that affect both minds and institutions respect no public/private boundary. They appear in the bed, in the home or streets, where women are raped and battered, and in the halls of Parliament. Resistance to such power, accordingly, also appears in the smallest and most private of acts.

As Simone de Beauvoir ([1949] 1989) pointed out, women's most pervasive struggle must be against the category of Other, defined by the dominant class to marginalize the subordinate. Capping a long-standing feminist recognition that men form the automatic norm (Austin, 1932, cited in Cott, 1986; Minow, 1987), MacKinnon writes:

> Men's physiology defines most sports, their needs define auto and health insurance coverage, their socially designed biographies define workplace expectations and successful career patterns, their perspectives and concerns define quality in scholarship, their experiences and obsessions define merit, their objectification of life defines art, their military service defines citizenship, their presence defines family, their inability to get along with each another – their wars and rulerships – defines history, their image defines god, and their genitals define sex. (1987, p. 36)

In English and many other tongues, language itself encodes the message of male as norm and female as other. When philosophers write that the community that constitutes the self is marked by 'a common vocabulary of discourse and a background of implicit practices and understandings' (Sandel, 1982, pp. 172–3) or that the norms, ends, institutions and practices of a community function 'as a kind of language', both creating and requiring mutual understanding (Taylor, 1979, p. 89), feminists point out that the 'common vocabulary' and 'language' is not neutral among those who use it.

Even the physical act of speaking, which creates or precludes political possibility, is gendered. In the United States, for instance, women are more likely to adopt linguistic

usages that connote uncertainty. Men are more likely to interrupt. Women tend to speak less than men when men are present, both in private and in public, including in democratic public assemblies. Even women legislators, on the average, speak less often than their male counterparts. The 'higher register' of women's voices seems further to generate an automatic discounting of their substantive meaning. But in spite of women's curtailed and discounted speech, throughout the world proverbs discipline women for talking too much: 'the tongue is the sword of a woman, and she never lets it become rusty' (Mansbridge, 1993; Kathlene, 1998).

Feminist theorists of dominance warn against dangers in affirming qualities that have been associated for generations with powerlessness and that often derive from powerlessness itself. Arguing against any celebration of women's 'difference' from men, Catharine MacKinnon points out that in societies permeated by men's dominance of women any difference already encodes dominance: 'When difference means dominance as it does with gender, for women to affirm differences is to affirm the qualities and characteristics of powerlessness' (MacKinnon, 1989, p. 51). Thus a greater familiarity with intimate relations derives largely from exclusion from public relations. A preference for persuasion derives largely from exclusion from power. Caring generates moral claims in the absence of rights. Intuition and empathy are the protective sensitivities of those who cannot exercise their will directly. The dominance perspective warns that these and many other differences between men and women in any given society are suffused with hierarchical power.

In Western political thought, the feminist recognition of pervasive male domination has produced a rethinking of liberal concepts that sometimes conflicts with the reconceptualizations derived from intimate connection. Rethinking consent from the perspective of domination means, for example, ideally taking consent as given only when power is absent. Because power is rarely if ever absent, consent can never in practice play the fully voluntary role that liberal democratic theory demands (Pateman, 1988; Hirschmann, 2003).

Rethinking justice from this perspective means rethinking impartiality. Impartiality, unexamined, will code dominant experiences as the norm, excluding or discriminating against individuals whose experiences are not encompassed by that norm. Universality, unexamined, will not accept or accommodate difference. A concept of justice that addresses these problems focuses less on ideal distribution than on eliminating institutionalized domination (Benhabib, 1988; Young, 1987; 1990; 2000; Friedman, 1991; for a feminist view of impartiality in the sciences, see Longino, 2001).

Rethinking autonomy from this perspective means discarding the concept of a 'true' or 'authentic' self that is revealed when interference (in the liberal tradition) or 'false consciousness' (in the Marxist tradition) is removed. If the self is a constructed, changing entity, identifiable as a subject and author of its own narrative only by living in it and with it, autonomy cannot be gained simply by shedding adverse socialization. Autonomy must be not a state, but a practice, embedded in existing power relations. Autonomy must be the exercise of a competency, a 'repertory of coordinated skills' that makes possible a personal integration tested in the context of different levels and kinds of power, trying out possibilities that one sees others have achieved and say are achievable. It must be seen as an active relationship with internal as well as external constraints. It requires for subordinate groups, such as women and the disabled, the

removal of structural barriers created for the convenience of the dominant class (Meyers, 1989; di Stefano, 1996; Hirschmann, 2003).

Putting these perspectives into practice

Debates among feminist legal theorists have played out some of these differences in perspective in the arena of law and public policy. In the United States, for example, some feminist jurists argue that the law should be completely sex-blind, recognizing no differences between the sexes. Proponents of such 'formal equality' argue that mandating or allowing legal distinctions between men and women will undermine gender equality in the long run by reinforcing traditions of special treatment (for discussion, see Bartlett, 1994; Baer, 1999). 'Difference' and 'dominance' theorists contend to the contrary that because women are at this historical juncture situated differently from men, making their lives in a world designed primarily by and for men, the law must recognize the needs that their different situations create. Dominance theorists focus particularly on ending the domination inherent in rape, battering, incest, sexual harassment and pornography (e.g. Becker, 1987; MacKinnon, 1987; 1989; 2006; for discussion see Okin, 1991). Some of their greatest practical successes lie in the transnational movement against violence against women and in making rape a war crime.

Certain debates between 'sameness' and 'difference' jurists reflect different guesses in an uncertain situation about what is best for women in the short and long run. Even if the law recognized gender differences only when such recognition would be likely to reduce sex-based disparities in political, economic or social power (Rhode, 1989), it would still be hard to know when legal differentiations based on gender would in practice reduce such disparities. In a society that held women more responsible than men for childcare, women might on the average take more days of leave from work than men even under gender-neutral laws providing disability leave for all forms of inability to work and childcare leave for both parents. Mandating such leaves might then, in the absence of deeper structural changes, cause employers to choose and promote men over women on the margin. The depth of the expectation that only women will care for children (and older adults) is so great in every society that it is highly unlikely in the near future either that norms will change dramatically so that men voluntarily take as much responsibility for children and the elderly as women, and develop the skills and dispositions to care for them, and/or that states will pass legislation requiring rather than permitting both parents to take childcare leaves in the first months of a child's birth. In the context of these larger social expectations, Swedish laws making parental leave and half-time employment easily available, although adding considerably to the welfare of women and children, seem at the same time to have helped perpetuate traditional gender stereotypes in that country (Rosenfeld and Kalleberg, 1991). The dominance perspective argues simply that workplaces, social life and state benefits should be structured so that women can function as equals with men.

In this controversy, feminists who wish to adopt features of the sameness, difference and dominance perspectives face a delicate task. They must, at the same time, demonstrate how the dominant culture widens perceived differences, draw distinctive insights

from women's side of the divide (on the grounds that roots in subordination do not automatically invalidate an insight), and, while struggling against power inequalities embedded in existing differences, find new tools, drawn from the process of struggle itself, to fight the male domination that permeates women's lives.

Differences among Women

The philosophical and legal debate over differences between men and women has a parallel in the current, highly central, debate within feminist theory over differences among women, running from the continuing issue of essentialism to the more recent issues of the subtle and unsubtle harms entailed by assuming heterosexuality as the norm and multiculturalism as a simple and uncontroversial good.

Essentialism

Feminist theories that make claims about and in the name of 'women' often suggest that there is some 'essence' of womanhood, experienced only by women and in the same way by all women. Yet many claims in the name of women reveal under closer inspection that they are based on the experiences of only some women, usually women much like the theorist herself. Some French feminists, influenced by post-structuralism and reacting against Enlightenment reifications of 'man' and such essentialist visions of 'woman', stressed early on the internal differences within any category, considering the category 'woman' as illegitimate as any other generalization. 'The belief that "one is a woman"', wrote Julia Kristeva, 'is almost as absurd and obscurantist as the belief that "one is a man"' ([1974] 1981a; see also [1979] 1981b). In the United States, Judith Butler argued congruently that the political necessity within feminism to 'speak as and for *women*' must be joined with continually contesting the meaning of that word. Feminists, she writes, should assume that '"women" designates an undesignatable field of differences, so that the very term becomes a site of permanent openness and resignifiability' (in Benhabib et al., 1995, p. 50). In this analysis, domination works through naturalizing and stabilizing the category of woman.

Agreeing with these points, Gayatri Spivak ([1989] 1993) nevertheless suggests that a stance of 'strategic essentialism' allows groups like women to organize by putting forth a simplified identity temporarily in pursuit of a political interest. The demand for 'recognition', best understood as a demand for the redress of status injustice (Fraser, 2003), also requires thinking of women as a group. MacKinnon, also supporting the idea that women can be considered as a group, points out that certain features of the status of women, such as sex inequality, appear 'across time and place' as regularities reported by women (2006, p. 52). To meet the need for an understanding of a group that is not essentialist, Iris Marion Young ([1994] 1997) borrows from Sartre to argue that women as a group can be conceived serially, like people waiting for a bus or belonging to an economic class, not in a way that defines their identities but simply in having some common relation to the material conditions of life.

Language itself conduces to essentialism, because any word implies (as words must) the dominant or majority subcategory within the category covered by that word,

thereby excluding by implication the less powerful or the minority. Thus, the use of 'man' to mean 'human being' theoretically includes women – except that the word 'man' has connotations and establishes expectations that exclude women. Similarly, the word 'women' theoretically includes African American women – except that because white women in the United States comprise the great majority of women, the word in that context has connotations that exclude many experiences of the majority of African American women. In the same way, the phrase 'African American women' implies 'heterosexual African American women', and the phrase 'heterosexual African American women' implies 'able-bodied heterosexual African American women'. Each category, conjuring up its dominant or majority referent, implicitly excludes those whose experiences differ from that majority (Bartlett, 1990, p. 848; cf. Spelman, 1988; Hammonds, 1997). In each of these cases, moreover, the linguistic constraints that automatically marginalize non-dominant groups form the everyday casing for significant systems of legal and political oppression. As Uma Narayan (2000) points out, even attention to differences among women can result in 'cultural essentialism' through totalizing generalizations such as 'Third World women'. Because all speakers must use words, and cannot maintain in consciousness the potentially infinite regress of the implicitly unincluded, Feminist theorists usually try to recognize that all communication encodes power, make space for those who bring that power to the surface for conscious criticism, and report as faithfully as possible the different perspectives that different individuals bring to bear (e.g. Sunder Rajan, 2003).

Heteronormativity

The dominance within feminist theory of the terms 'man' and 'woman' reflects a marginalization, linked again with strong legal, religious and social sanctions against deviations from the norm, both of those who 'bend' their genders, consciously adopting cross-gendered characteristics, and transgendered or transsexual people, who identify across genders or live as another gender with or without medical changes to their bodies. Queer theorists rightly insist that the binary 'woman' and 'man' obscures the plurality of gender and sexuality, as individuals experience different characteristics of the two traditional genders in their identities, actively perform various mixtures at different times, and, to the degree that they can monetarily, socially and emotionally afford to do so, physically transition from one mixture to another. To take an example from this very chapter, when feminists state that 'feminism has one obvious, simple, and overarching goal – to end men's systematic domination of women', that statement itself reifies the hegemonic binary. It also tends to silence those who identify with neither of the poles.

In practice and within queer theory a tension arises between the 'many transgender people [who] see their gendered self as ontologically inescapable and inalienable' (Stryker, 2006, p. 10) and those who, treating their identities as relatively malleable, engage with those identities more as performances than as unchangeable givens (on gender as performance, 'a practice of improvisation within constraint', see Butler, [1990] 1999; 2004, p. 1). Both groups can converge politically on opposition to the 'unwanted legislation of identity' (Butler, 2004, p. 7). Some can bridge the tension in part by consciously doing both – being and playing (cf. Halberstam, 1998).

Queer theory deepens feminist theory by sharpening the tools with which to resist, even as we use the terms to speak, the rigid binaries of hetero- and homosexuality, man and woman.

Multiculturalism

The constant parallel with male domination makes feminists particularly likely to value differences among women, reject universalizing from a dominant norm, and credit women's own experiences, which reflect many different structural positions. These impulses then may collide with an equally strong feminist insistence on universally applicable claims of justice, equality and rights.

The tension plays out most vividly in the 'multiculturalism' debates, prompted by situations in which 'the claims of minority cultures or religions clash with the norm of gender equality' (Okin, 1999). In such situations, a state's accommodations to a minority cultural group allow 'some members – usually the group's more powerful members – to oppress more vulnerable members within the group' (Song, 2005). In parsing out the competing values in this debate, which pits 'group' rights, accommodations and identities against more universal 'women's' rights, most feminists agree on the following points.

First, some set of universal human rights or values should prevail in any conflict with cultural custom or religious practice. In 1997 in Beijing, women activists from all over the globe concluded that, 'Any harmful aspect of certain traditional, customary or modern practices that violates the rights of women should be prohibited and eliminated' (cited in Okin, 1998). Despite the potential ambiguities in the words 'harmful', 'certain' and 'rights', and the omission of 'religious' among the adjectives modifying practices that might violate rights, this statement established firmly in a global context the principle that rights should prevail over custom.

Second, group rights and values, even more than individual rights and values, are at this moment usually articulated by male leaders in contexts that provide inadequate representation for women's voices (Okin, 1999; Benhabib, 2002; Phillips, 2002). Any interpretation of the world, including one's own, should always be open to contest, but women should be particularly sceptical of authoritative statements of value when women themselves have had, over time, little capacity to interrogate and contribute to such statements. For all members of subordinate classes, the ideal of free and equal deliberation (Benhabib, 2002) requires extensive discussion with people similarly situated, in protected spaces that allow creative thought. Such spaces and the analyses they inspire allow individuals to begin to wean themselves from their adaptive preferences (Elster, 1983; Nussbaum, 2001) and contribute to collective understandings that make most sense for them in their particular circumstances (Shaheed, 1994; Narayan, 1997; Ackerly, 2000; Mansbridge, 2005).

Third, most religions, ethnic groups and traditions encompass great diversity and internal contest. Each major religion faces significant differences in interpretation (often leading to long and bloody conflicts) and local variation. Cultural groups also are internally varied, changing, contested, permeable in their boundaries, and shaped in mutual interaction with surrounding cultures, not homogeneous, static, internally well-integrated, clearly bounded or self-generating (Shaheed, 1994; Narayan, 2000;

Benhabib, 2002; Song, 2005). Within any culture or tradition the interests of subgroups often differ – e.g., the interests of the women differ in important ways from those of the men and the interests of subgroups of women differ from one another.

Fourth, better outcomes for women are often achieved by working within a tradition, reinterpreting it and drawing on its own teachings and values, rather than attacking that tradition with precepts drawn from what many see as a conflicting tradition. Thus many Muslim feminists believe, with Azizah Al-Hibri (1999, p. 45), that 'many oppressive practices attributed to Islam are either cultural ones or ones that resulted from a patriarchal interpretation of religious text'. In this view, relief can best come from confronting oppressive cultural practices with the values incorporated in the religious text, many of which are 'clearly shared universally, by people of faith as well as secularists' (ibid., p. 46), or by interpreting that text and the traditions that derive from it in ways that 'take into account the time, place, and *maslaha* [public interest] of [the community], half of whom are women' (ibid., p. 44).

Fifth, it is nevertheless 'right to be concerned' about one's 'sisters' in another culture and 'not to look the other way in the face of their oppression' (Al-Hibri, 1999, p. 45). A critic's rightful humility about potential and inevitable failures in understanding another human being, from within her own culture or outside it, should not devolve into a cultural relativism that abstains from judgement.

Sixth and finally, across the globe some of the most contested issues, and those in which women experience the most harm, arise in the domestic sphere, particularly in matters relating to sexuality and reproduction – such as primary responsibility for child and household care, marriage and preparations for marriage, divorce, rape, sexual intercourse, inheritance and property rights. Liberal polities, like many other forms of polity, have typically left many matters from the domestic sphere to the custody of religion and custom (or, where the state does intervene, to relatively local control). Thus in every polity feminist changes in the domestic realm typically evoke great resistance, both from men and from women whose equilibria for survival have been constructed in a context of lesser power that will not change soon and who thus risk losing much in many proposals for change. Whether the interventions in the domestic sphere come from the state or from changing norms in civil society (including religious interpretation), any such intervention is likely to cause anger, dislocation, unintended consequences, pain and backlash. Ethno-cultural groups whose members perceive their group as endangered will particularly resist such interventions, as their definition of existence as a group is often defined by reproduction and always by the culture of the home (Shachar, 2001).

Much in this controversy hinges on the definition of harm and rights, often with outsiders to the culture defining as harmful practices things that insiders see as neutral or even positive achievements. Great difficulty comes in distinguishing the harms in grey areas, perhaps because 'harm' being neither an obvious nor a self-defining category (Fineberg, 1987), such parsing is often best done by individuals steeped in those traditions and their contexts. Practical disagreements also arise, primarily among feminists within a given country, over the degree to which a central state should intervene in matters previously defined as local, and over the speed, force, methods, timing and interaction with other political issues of any intervention. For example, many Indian feminists backed away from criticizing Muslim family law when the right-wing Hindu

party attacked the Muslims in India (Phillips, 2005). As ethno-cultural differences continue or increase as significant causes of conflict and war, and as women's role in these differences remains central, the plural legal traditions and governmental arrangements that provide significant subgroup autonomy will pose problems for future feminist political and legal theory (Shachar, 2001; Benhabib, 2002).

Recognizing that the many feminisms of the present and future, rooted in different traditions, will all have to give great weight to the diversity within their own traditions, we propose that the assumption that 'there is a generalizable, identifiable and collectively shared experience of womanhood' (Benhabib and Cornell, 1988, p. 13) be treated as contested, historical and subject to changing perceptions. Women of different cultures and historical situations will always adopt any particular feminist perspective tentatively to see in what ways an analysis of their lives as subject to male domination makes sense to them. Under that general rubric, what is salient to some individuals may differ from what is salient to others. Certain laws and norms will harm differently women who are lesbian and heterosexual, poor and aristocratic, urban and rural, Christian and Muslim, with and without children, or in other ways differently situated in individual and social history. These differences will lead to differences in political priorities and, because collectives often have to focus on a limited number of issues, to political struggle over those priorities.

We hazard, however, that in the midst of this diversity, there will emerge one universal, though general, definition of feminism – the rejection of male domination. We also hazard that there will emerge several predictable loci of contestation within existing male-dominated arrangements: sexual domination, through incest, battering, rape and other violence against women; sickness and death, for in many societies females are aborted, badly fed and given worse medical treatment than males; household power, reinforced by legal and bureaucratic procedures that treat the household as a single unit represented by its head, very often a man; unequal economic opportunity, including not only unequal legal access to work and social discrimination against women in every craft and profession, but also unequal access to education, credit and other sources of economic power; and, finally, unequal political opportunity, including the unequal economic and cultural bases for political power and deliberation (Okin, 1989).

At least in the United States, some of the paths to equality for women seem obvious. The reduction of violence against women, whether sexual or not, whether in the streets or in more private settings, must take high priority. Women's rights to control their reproductive lives must be not only preserved but enhanced. And public policy should focus on breaking women's 'cycle of vulnerability', a cycle that results from women having far greater responsibility than men for domestic work – including the care of the young, the sick and the old – then being further disadvantaged in the (male-centred) paid workplace by direct discrimination and the indirect discrimination that results from greater domestic responsibilities, then having this workplace disadvantage in turn render them less powerful at home. How can this cycle be broken? In part by greater vigilance against direct workplace discrimination, and in part by restructuring the workplace – including its hours and benefits – to suit better the needs of mothers and of those still rare fathers who participate equally in raising their children. Breaking the cycle will also require subsidized day care, because society, not just women, should

share the responsibilities of raising the next generation. Reforms in divorce and family law can help ensure that women who choose to live with women, and women who choose more traditional lives as homemakers, are not thereby rendered vulnerable, economically and socially.

Some public policies will work to the advantage of all or almost all women in a society. Others will hurt some while helping others. Many will be contested. The feminist philosophical concern with internal difference should help undermine the political certainty that any particular reform is unequivocally good for 'women'.

Feminism as an Ideology

If we think of an 'ideology' as an organizing tool for understanding the universe, a tool that necessarily affects perception but does not necessarily serve the dominant power, feminism is distinguished by the view that 'gender is a problem: that what exists now is not equality between the sexes' (MacKinnon, 1989, p. 38; see also le Doeuff, 1990, p. 29).

Such a definition of feminism does not require deriving it from a single root, such as the domination inherent in erotic heterosexuality. (For arguments to the contrary, see MacKinnon, 1989.) In our analysis, the desire for control over reproduction plays an independent role in gender domination, as does, probably, the simple interest of the stronger in exploiting the weaker, perhaps facilitated by early historical patterns of childbearing and lactation, or even by early effects on power of the relatively small differences between men and women in size and upper body strength. For most feminists it is too early to settle on one root cause of all gender oppression.

Emphasizing the constructed and self-constructing character of the forms of domination links feminist analysis to postmodernism and post-structuralism. Feminist sensitivity to power and to binary opposition creates links with Foucault and Derrida. Yet unlike many forms of postmodernism and post-structuralism, feminism is rooted in politics. In spite of caution derived from understanding the constructed and biased character of all actual administrations and conceptions of justice, feminism must be committed to some sense of justice and rights that transcends any one society. In spite of caution derived from understanding the processes of false consciousness and the ways that all experience is mediated, feminism must be committed to crediting women's experience. In spite of caution derived from understanding that any set of settled relations creates imbalances of power and that any form of coercion diminishes freedom, feminism must be committed, in order to accomplish change, to creating and partaking in the legitimate coercion embodied in law. In these ways feminism differs necessarily from the thrust of important implications in Foucault, Derrida and other post-structuralists.

Because feminism is based in women's experiences, we expect it to ally partially with, and borrow partially from, new philosophical initiatives, both progressive and conservative, that themselves have some tie to experience. Feminists learn both from reaction and from appropriation. These different borrowings and alliances, combined with real differences in experience, lead us to expect in feminism a series of productive wars. Like the social movement from which it is derived, feminist philosophy will be

many-headed. It will be a quilt as much as a tapestry, and the quilt's patches will change in shape and colour before our eyes. Some forms of feminism will even incorporate elements antithetical to the broader struggle against domination in all its forms. Several early suffragist leaders in the United States, and undoubtedly many of their followers, were white racist feminists – a combination of feminism with a moral evil, but not a contradiction in terms.

Because feminism is based in political struggle, we expect its ideas to extend through transnational activist organizations and pressure on organizations such as the United Nations and World Bank, as well as through international conferences, journals, internet articles, speeches and bibliographies, and other prompts to deliberation, so that practice and socially normative context affect philosophy and vice versa. So, for example, gender quotas have spread through Africa (where women in different countries wear T-shirts inscribed '50/50'), spurred by the accessible concept of proportionality for different tribal groups, the need for dramatic leaps to get women into power, and the number of new constitutions. The success of quotas in Africa and South Asia has inspired feminist philosophical arguments for descriptive representation even in Anglo-American countries, where liberal individualism makes quotas currently politically problematic (e.g., Phillips, 1995; Williams, 1998; Mansbridge, 1999). Anglo-American arguments, however, find little resonance among French feminist philosophers and activists, who, congruently with French universalism, must promote *parité* on the grounds that gender does not create a 'group' but is, on the contrary, the only 'universal difference within humanity' (Agacinski, 2003, 31). Political pressure interacts differently with philosophical ideas in these different contexts.

As an ideology, a way of seeing and making sense of things, we expect feminism in the different parts of the globe to take forms not easily predictable from Western experience. In Western political philosophy, a central task continues to be to penetrate the public/private dichotomy, reveal its intimate connection with gender, and loosen its grip on both philosophy and policy. Feminists in other countries and cultures may find themselves challenging, in the philosophies that constitute and derive from their own social arrangements, the binary oppositions of purity/impurity, war/maternity, spirituality/animality and other dichotomies now occluded with gender. The gendering of politically relevant concepts is deep and pervasive in every culture. It is the task of feminist philosophy to unmask the effects on power of these categories of thought, revealing the conscious and unconscious gender valence of central philosophical and political ideas. As feminists work through public policy to change the political, economic and social structures that perpetuate male domination, the obstacles they meet and the relations they unearth will in turn influence feminist philosophy. The interaction of women's experiences, feminist politics and a feminist philosophy that sees the personal as political will produce, in continual evolution, feminism as an ideology.

Author's note: Susan Okin died in 2004. I have brought this entry up to date without the benefit of her strong critical intelligence and feminist commitment. I am confident she would have approved most – although certainly not all – of my changes, even in the discussion of multiculturalism, where I think I have captured the drift of her latest thinking.

Jane Mansbridge

References

Ackerley, B. A.: *Political Theory and Feminist Social Criticism* (Cambridge: Cambridge University Press, 2000).

Agacinski, S.: 'The turning point of feminism: Against the effacement of women', trans. M. Schwartz, in *Beyond French Feminisms: Debates of Women, Politics, and Culture in France, 1981–2001*, ed. R. Célestin, E. DalMolin and I. Courtivron (London: Palgrave, 2003), pp. 17–22.

Al-Hibri, A. Y.: 'Is western patriarchal feminism good for Third World women?', in *Is Multiculturalism Bad for Women?* ed. S. M. Okin et al. (Princeton, NJ: Princeton University Press, 1999).

Allen, A.: *The Power of Feminist Theory* (Boulder, Col.: Westview Press, 1999).

Anzaldùa, G.: *Borderlands: The New Mestiza – La Frontera* (San Francisco, Calif.: Spinsters/Aunt Lute, 1987).

Arendt, H.: *On Revolution* (1963) (New York: Viking, 1965).

Bachrach, P. and Baratz, M.: 'Decisions and non-decisions: an analytic framework', *American Political Science Review,* 57 (1963), 632–44.

Baer, J. A.: *Our Lives Before the Law: Constructing a Feminist Jurisprudence* (Princeton, NJ: Princeton University Press, 1999).

Baier, A. C.: 'Hume, the woman's moral theorist?' (1987) in *Feminism and History of Philosophy*, ed. G. Lloyd (Oxford: Oxford University Press, 2002).

Bartlett, K. T.: 'Feminist legal methods', *Harvard Law Review,* I03 (1990), 829–88.

—: 'Gender law', *Duke Journal of Gender Law and Policy*, 1 (1994), 1–18.

Basu, A.: *The Challenge of Local Feminisms: Women's Movements in Global Perspective* (Boulder, Col.: Westview, 1995).

de Beauvoir, S.: *The Second Sex* (1949) (New York: Vintage Books, 1989).

Becker, M.: 'Prince Charming: abstract equality', *The Supreme Court Review,* 5 (1987), 201–47.

Benhabib, S.: 'The generalized and concrete other', (1987), in *Feminism as Critique*, ed. S. Benhabib and D. Cornell (Minneapolis: University of Minnesota Press, 1988).

—: *The Claims of Culture: Equality and Diversity in the Global Era* (Princeton, NJ: Princeton University Press, 2002).

Benhabib, S. et al.: *Feminist Contentions: A Philosophical Exchange* (New York: Routledge, 1995).

Benhabib, S. and Cornell, D.: *Feminism as Critique* (Minneapolis: University of Minnesota Press, 1988).

Berg, M.: 'Luce Irigaray's "Contradictions": poststructuralism and feminism', *Signs*, 17 (1991), 50–70.

Blum, L. A.: 'Kant and Hegel's moral rationalism: a feminist perspective', *Canadian Journal of Philosophy*, 12 (1982), 287–302.

Botting, E. H. and Houser, S. L.: '"Drawing the line of equality": Hannah Mather Crocker on women's rights', *American Political Science Review*, 100, 2 (2006), 265–78.

Brennan, T.: 'Introduction', in *Between Feminism and Psychoanalysis*, ed. T. Brennan (London: Routledge, 1989).

Bunch, C.: 'Lesbians in revolt' (1972), in *Passionate Politics* (New York: St Martin's Press, 1987), pp. 161–7.

Butler, J.: *Gender Trouble: Feminism and the Subversion of Identity* (1990) (London: Routledge, 1999).

—: *Undoing Gender* (London: Routledge, 2004).

Calhoun, C.: 'Separating lesbian theory from feminist theory', *Ethics*, 104 (1994), 558–81.

Carby, H.: *Reconstructing Womanhood: The Emergence of the Afro-American Novelist* (Oxford: Oxford University Press, 1987).

Cheah, P. and Grosz, E.: 'Of Being-Two: Introduction to Irigaray and the political future of sexual difference', *Diacritics*, 28, 1 (1998), 3–18.

Chodorow, N.: *The Reproduction of Mothering: Psychoanalysis and the Sociology of Gender* (Berkeley, Calif.: University of California Press, 1978).

—: 'Gender, relation and difference in psychoanalytic perspective' (1979), in *Feminism and Psychoanalytic Theory* (New Haven, Conn.: Yale University Press, 1989).

Chun, L.: 'Finding a language: Feminism and women's movements in contemporary China', in *Transitions, Environments, Translations: Feminisms in International Politics*, ed. J. W. Scott, C. Kaplan and D. Keates (New York: Routledge, 1997), pp. 11–20.

Clement, G.: *Care, Autonomy, and Justice: Feminism and the Ethic of Care* (Boulder, Col.: Westview Press, 1996).

Collins, P. H.: *Black Feminist Thought* [1st edn 1990], 2nd edn (New York: Routledge, 2000).

Cott, N.: 'Feminist theory and feminist movements', in *What is Feminism?* ed. J. Mitchell and A. Oakley (New York: Pantheon, 1986).

Crenshaw, K.: 'Demarginalizing the intersection of race and sex: A black feminist critique of antidiscrimination doctrine, feminist theory and antiracist politics', *University of Chicago Legal Forum*, (1989), 139–67.

—: '"Mapping the margins": Intersectionality, identity politics and violence against women', *Stanford Law Review*, 43 (1991), 1241–99.

Diamond, I. and Orenstein, G. F., eds: *Reweaving the World: The Emergence of Ecofeminism* (San Francisco, Calif.: Sierra Club Books, 1990).

Dietz, M. G.: 'Citizenship with a feminist face: the problem with maternal thinking', *Political Theory*, 13 (1985), 19–37.

Dinnerstein, D.: *The Mermaid and the Minotaur: Sexual Arrangements and Human Malaise* (New York: Harper Colophon, 1977).

Di Stefano, C.: 'Autonomy in the light of difference', in *Revisioning the Political: Feminist Reconstructions of Traditional Concepts in Western Political Theory*, ed. N. J. Hirschmann and C. Di Stefano (Boulder, Col.: Westview, 1996).

le Doeuff, M.: *Hipparchia's Choice* (1989), trans. T. Selous (Oxford: Blackwell, 1990).

Eagly, A. H. and Steffen, V. J.: 'Gender stereotypes stem from the distribution of women and men into social roles', *Journal of Personality and Social Psychology*, 46 (1984), 735–54.

Echols, A.: *Daring to be Bad: Radical Feminism in America, 1967–1975* (Minneapolis: University of Minnesota Press, 1989).

Eisenberg, N. and Lennon, R.: 'Sex differences in empathy and related capacities', *Psychological Bulletin*, 94 (1983), 100–31.

Elshtain, J. B.: *Public Man, Private Woman: Women in Social and Political Thought* (Princeton, NJ: Princeton University Press, 198I).

Elster, J.: *Sour Grapes: Studies in the Subversion of Rationality* (Cambridge: Cambridge University Press, 1983).

Emmett, D.: 'The concept of power', *Proceedings of the Aristotelian Society*, 54 (1953–54), 1–26.

Epstein, C. F.: *Deceptive Distinctions: Sex, Gender and the Social Order* (New Haven, Conn.: Yale University Press and Russell Sage Foundation, 1988).

Feree, M. M.: 'German unification and feminist identity', in *Transitions, Environments, Translations: Feminisms in International Politics*, ed. J. W. Scott, C. Kaplan and D. Keates (New York: Routledge 1997), pp. 46–55.

Fineberg, J.: *Harm to Others* (Oxford: Oxford University Press, 1987).

Fischer, A. H., ed.: *Gender and Emotion* (Cambridge: Cambridge University Press, 2000).

Flanagan, O. and Jackson, K.: 'Justice, care and gender: the Kohlberg–Gilligan debate revisited', *Ethics*, 97 (1987), 622–37.
Follett, M. P.: 'Power' (1935), in *Dynamic Administration: The Collected Papers of Mary Parker Follett*, ed. H. C. Metcalf (New York: Harper, 1942).
Ford, M. R. and Lowery, C. R.: 'Gender differences in moral reasoning: a comparison of the use of justice and care orientations', *Journal of Personality and Social Psychology*, 50 (1986), 777–83.
Foucault, M.: 'Prison talk' (1975), in *Power/Knowledge*, ed. C. Gordon (New York: Pantheon, 1980).
Fraser, N.: 'Rethinking the public sphere: a contribution to the critique of actually existing democracy', *Social Text*, 25/26 (1990), 56–80.
—: 'Social justice in the age of identity politics: Redistribution, recognition, and participation', in *Redistribution or Recognition?* ed. N. Fraser and A. Honneth (London: Verso, 2003).
Friedman, M.: 'The practice of partiality', *Ethics*, 101 (1991), 818–35.
Fuss, D.: *Essentially Speaking: Feminism, Nature and Difference* (New York: Routledge, 1989).
Gallup Organization: *The Gallup Poll, 'Minority Rights and Relations*', Question 30 (6/11/2001–6/17/2001).
Garcia, A. M., ed.: *Chicana Feminist Thought: The Basic Historical Writings* (New York: Routledge, 1997).
Gilligan, C.: *In a Different Voice* (Cambridge, Mass.: Harvard University Press, 1982).
Gilligan, C. et al.: *Mapping the Moral Domain: A Contribution of Women's Thinking to Psychological Theory and Education* (Cambridge, Mass.: Harvard University Press, 1988).
Gould, C.: 'The woman question: philosophy of liberation and the liberation of philosophy', in *Women and Philosophy: Toward a Theory of Liberation*, ed. C. Gould and M. W. Wartofsky (New York: G. P. Putnam's Sons, 1976), pp. 5–44.
Grimshaw, J.: *Philosophy and Feminist Thinking* (Minneapolis: University of Minnesota Press, 1986).
Halberstam, J.: *Female Masculinity* (Durham, NC: Duke University Press, 1998).
Hammonds, E. M: 'When the margin is the center: African-American feminism(s) and "difference" ', in *Transitions, Environments, Translations: Feminisms in International Politics*, ed. J. W. Scott, C. Kaplan and D. Keates (London: Routledge, 1997).
Harding, S. and Narayan, U. eds: *Border Crossings: Multicultural and Postcolonial Feminist Challenges to Philosophy*, parts 1 & 2 (Bloomington, Ind.: Indiana University Press, 1998.)
Harris, A.: 'Race and essentialism in legal theory', *Stanford Law Review*, 42 (1990), 581–616.
Hartsock, N.: 'Political change: Two perspectives on power' (1974), in *Building Feminist Theory: Essays from Quest*, ed. C. Bunch (New York: Longman, 1981).
—: *Money, Sex, and Power: Toward a Feminist Historical Materialism* (New York: Longman, 1983).
Held, V.: 'Mothering versus contract', in *Beyond Self-Interest*, ed. J. J. Mansbridge (Chicago, Ill.: University of Chicago Press, 1990), 287–304.
—: The *Ethics of Care : Personal, Political, and Global* (Oxford: Oxford University Press, 2006).
Higgins, T. E.: 'Reviving the public/private distinction in feminist theorizing', *Chicago-Kent Law Review*, 75 (2000), 847–67.
Hirschmann, N. J.: 'Freedom, recognition and obligation: A feminist approach to political theory', *American Political Science Review*, 83 (1989), 1227–44.
—: *The Subject of Liberty: Toward A Feminist Theory of Freedom* (Princeton, NJ: Princeton University Press, 2003).
Hirschmann, N. J. and Di Stefano, C., eds: *Revisioning the Political: Feminist Reconstructions of Traditional Concepts in Western Political Theory* (Boulder, Col.: Westview, 1996).

Hyde, J. S.: *Half the Human Experience: The Psychology of Women* (Boston, Mass.: Houghton-Mifflin, 2006).
Irigaray, L.: *This Sex Which is Not One* (1977), trans. C. Porter with C. Burke (Ithaca, NY: Cornell University Press, 1985a).
—: *Speculum of the Other Woman* (1974), trans. L. C. Gill (Ithaca, NY: Cornell University Press, 1985b).
—: 'Gesture in psychoanalysis', in *Between Feminism and Psychoanalysis*, ed. T. Brennan (London: Routledge, 1989).
—: *I Love to You*, trans. A. Martin (New York: Routledge, 1996).
—: 'Preface', in L. Iragary, ed., *Luce Iragary: Key Writings* (London: Continuum, 2004).
Jaggar, A. M.: *Feminist Politics and Human Nature* (Totowa, NJ: Rowman and Allanheld, 1983).
Kant, I.: *Observations on the Feeling of the Beautiful and the Sublime*, (1763), trans. J. Goldthwait (Berkeley, Calif.: University of California Press, 1960).
—: *Fundamental Principles of the Metaphysic of Morals* (1785), trans. T. K. Abbott (Indianapolis, Ind.: Bobbs-Merrill, 1949).
Kathlene, L.: 'In a different voice: women and the policy process', in *Women and Elective Office: Past, Present, and Future*, ed. S. Thomas and C. Wilcox (New York: Oxford University Press, 1998).
Kittay, E. F. and Feder, E. K., eds: *The Subject of Care : Feminist Perspectives on Dependency* (Lanham, Md.: Rowman & Littlefield Publishers, 2002).
Klinger, C. and Nagl-Docekal, H., eds: *Continental Philosophy in Feminist Perspective* (University Park, Penn.: Penn State University Press, 2000).
Kohlberg, L.: *The Philosophy of Moral Development* (San Francisco, Calif.: Harper and Row, 1981).
Kristeva, J: 'Woman can never be defined' (1974), *New French Feminisms*, trans. M. A. August, ed. E. Marks and I. de Courtiveron (New York: Schoken, 1981a).
—: 'Women's time' (1979), trans. A. Jardine and H. Blake, *Signs*, 7 (1981b), 13–35.
Landes, J. B.: *Women and the Public Sphere in the Age of the French Revolution* (Ithaca, NY: Cornell University Press, 1988).
Lange, L., ed.: *Feminist Interpretations of Jean-Jacques Rousseau* (University Park, Penn.: Penn State University Press, 2002).
Longino, H.: *The Fate of Knowledge* (Princeton, NJ: Princeton University Press, 2001).
Lukes, S.: *Power: A Radical View*, 2nd edn (New York: Palgrave Macmillan, 2005).
MacKinnon, C. A.: *Feminism Unmodified* (Cambridge, Mass.: Harvard University Press, 1987).
—: *Toward a Feminist Theory of the State* (Cambridge, Mass.: Harvard University Press, 1989).
—: *Are Women Human? And Other International Dialogues* (Cambridge, Mass.: Harvard University Press, 2006).
Mansbridge, J. J.: 'Feminism and democratic community', in *Democratic Community: Nomos XXXV*, ed. J. W. Chapman and I. Shapiro (New York: New York University Press, 1993).
—: 'Should blacks represent blacks and women represent women? A contingent "yes" ', *Journal of Politics*, 61 (1999), 627–57.
—: 'Cracking through hegemonic ideology: the logic of formal justice', *Social Justice Research*, 18, 3 (2005), 335–47.
McClintock, M. K., Jacob, S., Zelano, B. and Heyreh, D. J. S.: 'Pheromones and vasanas: The function of social chemosignals', in *Evolutionary Psychology and Motivation*, ed. J. A. French, A. C. Kamil and S. W. Leger (Lincoln, Nebr: University of Nebraska Press, 2001).
Meyers, D. T.: *Self, Society, and Personal Choice* (New York: Columbia University Press, 1989).
Minow, M.: 'Justice engendered: foreword to the Supreme Court 1986 term', *Harvard Law Review*, 101 (1987), 10–95.

Mohanty, C. T., 'Under Western eyes: Feminist scholarship and colonial discourses', in *Third World Women and the Politics of Feminism*, ed. C. T. Mohanty, A. Russo and L. Torres (Bloomington, Ind.: Indiana University Press, 1991).
—: 'Under Western eyes revisited', in *Feminism without Borders* (Durham, NC: Duke University Press, 2003).
Mohanty, C. T., Russo, A. and Torres, L., eds: *Third World Women and the Politics of Feminism* (Bloomington, Ind.: Indiana University Press, 1991).
Molyneux, M. 'Mobilization without emancipation? Women's interests, state and revolution in Nicaragua', *Feminist Studies*, 11 (1985), 227–54.
—: *Women's Movements in International Perspective* (Basingstoke: Palgrave Macmillan, 2001).
Murdock, G. P. and Provost, C.: 'Factors in the division of labor by sex', *Ethnology*, 12 (1973).
Narayan, U.: *Dislocating Cultures: Identities, Traditions, and Third-World Feminism* (London: Routledge, 1997).
—: 'Essence of culture and a sense of history: A feminist critique of cultural essentialism', in *Decentering the Center: Philosophy for a Multicultural, Postcolonial, and Feminist World*, ed. U. Narayan and S. Harding (Bloomington, Ind.: Indiana University Press, 2000).
Nedelsky, J.: 'Reconceiving autonomy', *Yale Journal of Law and Feminism*, 1 (1989), 7–36.
Nussbaum, M.: 'Adaptive preferences and women's options', *Economics and Philosophy*, 17 (2001), 67–88.
Offen, K.: 'Defining feminism: A comparative historical approach', *Signs*, 15 (1988), 119–57.
Okin, S. M.: *Justice, Gender and the Family* (New York: Basic Books, 1989).
—: 'Thinking like a woman', in *Theoretical Perspectives on Sexual Difference*, ed. D. L. Rhode (New Haven, Conn.: Yale University Press, 1990).
—: 'Sexual difference, feminism, and the law', *Law and Social Inquiry*, 16 (1991), 553–73.
—: 'Feminism, women's human rights, and cultural differences', *Hypatia*, 13, 2 (1998), 32–52.
—: *Is Multiculturalism Bad for Women?* (Princeton, NJ: Princeton University Press, 1999).
Paidar, P.: 'Encounters between feminism, democracy, and reformism in contemporary Iran', in *Gender Justice, Development, and Rights*, ed. M. Molyneux and S. Razavi (Oxford: Oxford University Press, 2002).
Pateman, C.: *The Sexual Contract* (Stanford, Calif.: Stanford University Press, 1988).
—: *The Disorder of Women* (Stanford, Calif.: Stanford University Press, 1989).
Phillips, A.: *The Politics of Presence* (Oxford: Oxford University Press, l995).
—: 'Multiculturalism, universalism, and the claims of democracy', in *Gender Justice, Development, and Rights*, ed. M. Molyneux and S. Razavi (Oxford: Oxford University Press, 2002).
—: 'Dilemmas of gender and culture: the judge, the democrat and the political activist', in *Minorities within Minorities: Equality, Rights and Diversity*, ed. A. Eisenberg and J. Spinner Halev (Cambridge: Cambridge University Press, 2005), pp. 113–34.
Rhode, D.: *Justice and Gender* (Cambridge, Mass.: Harvard University Press, 1989).
Rich, A.: 'Compulsory heterosexuality and lesbian existence', *Signs*, 5 (1980), 631–60.
Rosenfeld, R. and Kalleberg, A.: 'Gender inequality in the labor market', *Acta Sociologica*, 34 (l991), 207–25.
Rossi, A.: 'A biosocial perspective on parenting', *Daedelus*, 106 (1977), 1–3.
Sandel, M.: *Liberalism and the Limits of Justice* (Cambridge: Cambridge University Press, 1982).
Sandoval, C: *Methodology of the Oppressed* (1991) (Minneapolis, Minn.: University of Minnesota Press, 2000).
Schor, N.: 'This essentialism which is not one', in *Engaging with Irigaray*, ed. C. Burke, N. Schor and M. Whitford (New York: Columbia University Press, 1994).
Shachar, A.: *Multicultural Jurisdictions: Cultural Differences and Women's Rights* (Cambridge: Cambridge University Press, 2001).

Shaheed, F. 'Controlled or autonomous: Identity and the experience of the network, women living under Muslim laws', *Signs*, 19 (1994), 997–1020.

Shanley, M. L. and Pateman, C., eds: *Feminist Interpretations and Political Theory* (University Park, Penn.: Pennsylvania State University Press, 1991).

Sher, G.: 'Other voices, other rooms? Women's psychology and moral theory', in *Women and Moral Theory*, ed. E. F. Kittay and D. T. Meyers (Totowa, NJ: Rowman & Littlefield, 1987).

Simmel, G.: *Conflict* (1908), trans. K. H. Wolff (New York: Free Press, 1955).

Song, S.: 'Majority norms, multiculturalism, and gender equality', *American Political Science Review*, 99, 4 (2005), 473–89.

Spelman, E. V.: *Inessential Woman: Problems of Exclusion in Feminist Thought* (Boston, Mass.: Beacon Press, 1988).

Spivak, G. C.: 'Can the subaltern speak?', in *Marxism and the Interpretation of Culture*, ed. C. Nelson and L. Grossberg (Urbana, Ill.: University of Illinois Press, 1988).

—: 'In a word. *Interview*' (with Ellen Rooney) (1989), in *Outside in the Teaching Machine* (New York: Routledge, 1993).

—: 'Subaltern talk: interview with the editors' (1993–4), in *The Spivak Reader*, ed. D. Landry and G. MacLean (New York: Routledge, 1996).

Springer, K.: 'Third wave black feminism?', *Signs: Journal of Women in Culture and Society*, 27 (2002), 1059–82.

Stryker, S.: '(De)subjugated knowledges: an introduction to transgender studies', in *The Transgender Studies Reader*, ed. S. Stryker and T. Whittle (New York: Routledge, 2006).

Sunder Rajan, R.: *The Scandal of the State: Women, Law, and Citizenship in Postcolonial India* (Durham, NC: Duke University Press, 2003).

Taylor, C.: *Hegel and Modern Society* (Cambridge: Cambridge University Press, 1979).

Tronto, J. C.: 'Care as a political concept', in *Revisioning the Political: Feminist Reconstructions of Traditional Concepts in Western Philosophy*, ed. N. J. Hirschmann and C. Di Stefano (Boulder, Col.: Westview, 1996).

Walker, A.: *In Search of Our Mothers' Gardens* (San Diego, Calif.: Harcourt, Brace, Jovanovich, 1983).

Wallace, M.: 'Anger in isolation: a black feminist's search for sisterhood' (1975), in *Invisibility Blues* (New York: Verso, 1990).

Williams, J. E. and Best, D. L.: *Measuring Sex Stereotypes* (Beverley Hills, Calif.: Sage, 1982).

Williams, M.: *Voice, Trust, and Memory: Marginalized Groups and the Failings of Liberal Representation* (Princeton, NJ: Princeton University, 1998).

Wood, W. and Eagly, A. H.: 'A cross-cultural analysis of the behavior of women and men: implications for the origins of sex differences', *Psychological Bulletin*, 128 (2002), 699–727.

Young, I. M.: 'Impartiality and the civic public', in *Feminism as Critique: On the Politics of Gender*, ed. S. Benhabib and D. Cornell (Minneapolis: University of Minnesota Press, 1987).

—: *Justice and the Politics of Difference* (Princeton, NJ: Princeton University Press, 1990).

—: 'Gender as seriality: thinking about women as a social collective' (1994), in *Intersecting Voices* (Princeton, NJ: Princeton University Press, 1997).

—: *Inclusion and Democracy* (Oxford: Oxford University Press, 2000).

Zinn, M. B. and Dill, B. T.: 'Theorizing difference from multiracial feminism', *Feminist Studies*, 22, 2 (1996), 321–31.

Further reading

Bartlett, K. T. and Kennedy, R., eds: *Feminist Legal Theory* (Boulder, Col.: Westview Press, 1991).

Basu, A., ed.: *The Challenge of Local Feminisms: Women's Movements in Global Perspective* (Boulder, Col.: Westview Press, 1995).
Benhabib, S. et al.: *Feminist Contentions: A Philosophical Exchange* (New York: Routledge, 1995).
Bono, P. and Kemp. S., eds: *Italian Feminist Thought* (Oxford: Blackwell, 1991).
Butler, J. and Scott, J. W., eds: *Feminists Theorize the Political* (London: Routledge, 1992).
Fraser, N. and Bartky, S. L., eds: *Revaluing French Feminism* (Bloomington, Ind.: Indiana University, 1992).
Frazer, E., Hornsby, J. and Loviband, S., eds: *Ethics: A Feminist Reader* (Oxford: Blackwell, 1992).
Hackett, E. and Haslanger, S.: *Theorizing Feminisms: A Reader* (Oxford: Oxford University Press, 2005).
Hirschmann, N. J and Di Stefano, C., eds: *Revisioning the Political: Feminist Reconstructions of Traditional Concepts in Western Political Theory* (Boulder, Col.: Westview Press, 1996).
Jaggar, A. M. and Young, I. M.: *A Companion to Feminist Philosophy* (Oxford: Blackwell, 1998).
James, J. and Sharpley-Whiting, T. D., eds: *The Black Feminist Reader* (Oxford: Blackwell, 2000).
Lloyd, G., ed.: *Feminism and History of Philosophy* (Oxford: Oxford University Press, 2002).
Lovell, T., ed.: *British Feminist Thought* (Oxford: Blackwell, 1990).
Meyers, D. T., ed.: *Feminists Rethink the Self* (Boulder, Colo.: Westview. 1997).
Mohanty, C. T., Russo, A. and Torres, L., eds: *Third World Women and the Politics of Feminism* (Bloomington, Ind.: Indiana University Press, 1991).
Moi, T., ed.: *French Feminist Thought* (Oxford: Blackwell, 1987).
Moraga, C. and Anzaldùa, G., eds: *This Bridge Called My Back: Writings by Radical Women of Color*, 3rd edn (Berkeley, Calif.: Third Woman Press, 2001).
Narayan, U. and Harding, S., eds: *Decentering the Center: Philosophy for a Multicultural, Postcolonial, and Feminist World* (Bloomington, Ind.: Indiana University Press, 2000).
Phillips A., ed.: *Feminism and Politics* (Oxford: Oxford University Press, 1998).
Phillips, A. and Barrett, M., eds: *Destabilizing Theory: Contemporary Feminist Debates* (Stanford, Calif.: Stanford University Press, 1992).
Shanley, M. L. and Pateman, C., eds: *Feminist Interpretations and Political Theory* (University Park, Penn.: Pennsylvania State University Press, 1991).

Chapter 14

Liberalism

ALAN RYAN

What is Liberalism?

Anyone trying to give a brief account of liberalism is immediately faced with an embarrassing question: are we dealing with liberalism or with liberalisms? It is easy to list famous liberals; it is harder to say what they have in common. John Locke, Adam Smith, Montesquieu, Thomas Jefferson, John Stuart Mill, Lord Acton, T. H. Green, John Dewey and contemporaries such as Isaiah Berlin and John Rawls are certainly liberals – but they do not agree about the boundaries of toleration, the legitimacy of the welfare state, and the virtues of democracy, to take three rather central political issues. They do not even agree on the nature of the liberty they think liberals ought to seek (Berlin, 1969, pp. 122–34; Crowder, 2004).

It is a familiar complaint in writing about politics generally that key terms are undefined or indefinable; the boundaries between 'political' and 'non-political' behaviour and institutions are disputed, the defining characteristics of statehood, the necessary and sufficient conditions of legitimacy are incessantly debated. Liberalism may be no worse off than its ideological competitors, of course. In everyday political practice, all the 'isms' seem to be in the same condition; liberals, conservatives and socialists can be identified only issue by issue, and their stand on one issue offers little clue to their stand on another. The conservative who opposes railway nationalization supports government subsidies of defence contractors, while the liberal who applauds the establishment of an ethics committee to investigate the financial dealings of politicians will deplore the establishment of a committee to investigate the ethics of schoolteachers.

However, even if conservatism and socialism are in the same plight, one is still inclined to ask, is liberalism one thing or many? Is liberalism determinately describable at all (Dworkin, 1985, pp. 183–203)? The observation that the terms of political discourse are not easily brought to an agreed definition is not new. Three hundred and fifty-five years ago, Thomas Hobbes remarked that if anyone had stood to profit from a similar confusion in geometry, mankind would still be waiting for Euclid. While Hobbes's remark suggests that it is the self-interest of priests, intellectuals and politicians that explains this lack of precise definitions, twentieth-century writers have suggested another reason, that political concepts are 'essentially contested' (Gallie, 1956, pp. 167–98; Gray, 1983, pp. 75–101). A third explanation, and one more relevant to

liberalism in particular, is that liberals' political concerns have altered over the past three centuries. All three kinds of explanation suggest, however, that we should be seeking to understand liberalism*s* rather than liberalism.

One reason for the indefinability of political terms, or the systematic slipperiness of our concepts of the state, the political, or, as here, liberalism, is the use of these terms as terms of praise or obloquy in the political struggle; this is a modern version of Hobbes's view that disputed definitions are the result of competing interests. Over the past twenty years, for instance, there has been an intellectual and political movement known as 'communitarianism', whose main defining feature is hostility to what its adherents defined as 'liberalism' (Sandel, 1982). Communitarians emphasize the innumerable ways in which individuals are indebted to the societies in which they are reared; liberals, they say, write as if human beings come into the world with no social ties, owning no allegiances, and one way and another entirely detached from the societies they in some fashion physically but not emotionally inhabit. So described, liberalism is unattractive, built on sociological falsehoods and a form of moral autism. Self-described liberals have naturally said that this is a parody of their views (Rawls, 1985, pp. 233ff.; 1993; Rorty, 1991, pp. 179ff.).

Liberals themselves have sometimes tried to define liberalism in such a way that only the very deluded or the very wicked could fail to be liberals. At the height of the Cold War, it was easy to present the available political alternatives as liberal democracy, on the one hand, and assorted forms of one-party totalitarianism, on the other. This attempt to narrow the range of political options was itself resisted. *Social* democrats who opposed both the one-party state and uncontrolled capitalism maintained that their disbelief in the legitimacy of private property in the means of production distinguished them from *liberal* democrats. Conversely, American conservatives distinguished themselves from liberals by according state and central governments a greater role in preserving national identity and some form of traditional moral consensus than liberals accept or else by advocating a more *laissez-faire* economy and a much-reduced economic role for government (Rossiter, 1982, pp. 235ff.). Their critics retorted that they were nonetheless doomed by American history to remain liberals; true – or European – conservatives believed in hierarchy, deference, tradition, and the Christian basis of political authority, but any American who sought to make a case for the politics of tradition had only a secular, liberal tradition to fall back on (Hartz, 1955, pp. 145–9).

The attempt to produce a clear-cut definition of a political stance is not always part of a hostile campaign to present the doctrines in question as incoherent or malign. Many political movements have devoted much effort to establishing a creed to which their members must swear allegiance. Lenin spent as much time denouncing his Marxist allies for their misunderstanding of scientific socialism as attacking the Tsarist regime. He thought a revolutionary movement must know exactly what it thought and hoped to achieve. If the faint-hearted or intellectually unorganized were driven out, so be it; as one essay proclaimed: 'Better Fewer But Better'. Of all political creeds, liberalism is the least likely to behave like this. Whatever liberalism involves, it certainly includes toleration and an antipathy to closing ranks around any system of beliefs. All the same, the search for coherence is not foreign to liberalism: liberals have often asked themselves what they have in common, where the boundaries lie between themselves and – say – socialists on the one side and conservatives on the other.

Another explanation of the difficulty of defining political terms is that they are 'essentially contested' terms, terms whose meaning and reference are perennially open to debate. If we define liberalism as the belief that the freedom of the individual is the highest political value, and that institutions and practices are to be judged by their success in promoting it – perhaps the most plausible brief definition – this only invites further argument. What is liberty? Is it positive or negative? How does the liberty of a whole nation relate to the liberty of its members? Nor is liberty the only concept to invite such scrutiny. Who are the individuals in question? Do they include children? Do they include the senile and the mentally ill? Do they include resident aliens or the inhabitants of colonial dependencies? This might be thought to be unsurprising; any definition opens up discussion of the terms in which the definition is proffered. The sting in the claim that these are *essentially* contested concepts is the thought that any elaboration will provoke further argument (Gallie, 1956, pp. 175ff.).

There is a clear direction in which any elaboration of the definition of a chair, say, must go, and a clear line beyond which discussion is merely captious. This seems not to be true of the discussion of political doctrines. While some arguments about the essence of liberalism may well be merely captious, the thought is hard to resist that a liberal might endlessly but productively ask, 'What is the essence of my political allegiances?' Whether the view that there are 'essentially contested concepts' is entirely coherent is another question. Unless some substantial portion of the meaning of a concept is *uncontested*, it is hard to see how the concept could be identified in the first place. There must be a central uncontested core of meaning to terms like 'liberty' if arguments about the contested penumbra are to make sense. A man in gaol is paradigmatically not free; a man threatened with punishment if he writes a book is paradigmatically less free to write it than the man not so threatened (Berlin, 1969, pp. 122ff.). Even so, we may agree that political terms are constantly being endowed with new meanings, in much the way the terms of the law are endowed with new meanings in the course of legal argument. If liberalism is distinct enough to be identifiable, it still changes over time.

Varieties of liberalism – classical vs. modern

To agree that liberalism may have a variety of institutional manifestations, while resting on one moral basis – Locke's claim that men are born 'in a state of perfect freedom, to order their actions and dispose of their possessions, and persons, as they see fit . . . a state also of equality' (Locke, 1967, p. 287) for instance – does not mean that all doubts about the porosity of liberalism have been laid to rest. One argument that has taken on the status of a commonplace is that there have been two kinds of liberalism: one 'classical', limited in its aims, cautious about its metaphysical basis, and political in its orientation; the other 'modern', unlimited, incautious, global in its aims and a threat to the achievements of 'classical liberalism'. Classical liberalism is associated with John Locke (Locke, 1967), Adam Smith, (Smith, 1976) Alexis de Tocqueville, (de Tocqueville, 1964) and Friedrich von Hayek (Hayek, 1973–9). It focuses on the idea of limited government, the maintenance of the rule of law, the avoidance of arbitrary and discretionary power, the sanctity of private property and freely made contracts, and the responsibility of individuals for their own fates.

It is not necessarily in itself a democratic doctrine, for it is an open question whether government by, or in the interests of, the majority will be friendly to the rule of law, the rights of property, or civil liberties; there is nothing in the bare idea of majority rule to show that majorities will always respect the rights of property or maintain the rule of law (Madison, 1987, X, pp. 122–5). Liberalism so understood is not always inevitably attached to the idea of progress – a progressive doctrine, for many classical liberals are sceptical about the average human being's ability to make useful advances in morality and culture, for instance, even if they have been optimistic about their ability to make economic progress. It is hostile to the welfare state; welfare states violate the principle that each individual ought to look to their own welfare, and frequently couch their claims in terms of the achievement of social justice, an ideal to which classical liberals attach little meaning (Hayek, 1976). More importantly, perhaps, welfare states confer large discretionary powers upon their politicians and bureaucrats, and thus reduce to dependency their clients, and those who depend upon the state for their prosperity.

Modern adherents of classical liberalism often ground their defence of minimal government on what they take to be a minimal moral basis. Minimal government may, for instance, be justified by the prosperity that economies deliver when they are not interfered with by governments; this argument has been current from Adam Smith's *Wealth of Nations* defence of 'the simple system of natural liberty' (Smith [1775] 1976, p. 687) down to F. A. von Hayek's in our own time. It is not morally contentious to claim that prosperity is better than misery, and it has been given greater credibility than ever by the collapse of the communist regimes of Eastern Europe and the discrediting of military and authoritarian governments elsewhere.

An equally minimalist defence of liberalism as minimal government is provided by pointing to the nastiness of government coercion, and the contrast between the negative effects of mere brute force and prohibition compared with the benign effects of uncoerced co-operation. No classical liberal denies the need for law; coercive law represses force and fraud, and the non-coercive civil law allows people to make contracts and engage in any kind of economic activity. Still, every classical liberal holds that all the forces that make for imagination, invention and growth come from the voluntary sector of the social order.

Classical liberals are not unanimous about the relationship between minimal government and the cultural and moral order, and this is perhaps the most important point about their moral views. Unlike 'modern' liberals, they do not display any particular attachment to the ideal of moral and cultural progress. David Hume was more of a political conservative than Adam Smith, but was more inclined than Smith to admire the 'brisk march of the spirits' typical of a flourishing commercial society. De Tocqueville was doubtful whether liberty could survive in the absence of strong religious sentiment, thinking that the self-reliance and self-restraint that he admired was not natural to modern man (de Tocqueville, 1964, pp. 310–25), and von Hayek is inclined to think that political liberalism rests upon cultural conservatism (Gray, 1984, pp. 129–31; 2000).

Contemporary defenders of 'classical' liberalism think it is especially threatened by 'modern' liberalism. Modern liberalism, on this view, reverses the ambitions and restraints of classical liberalism, and in the process threatens the gains that classical

liberals achieved when they replaced the tyranny of kings and courtiers with constitutional regimes. Modern liberalism is exemplified by John Stuart Mill's *On Liberty*, with its appeal to 'man as a progressive being' and its romantic appeal to an individuality which should be allowed to develop itself in all its 'manifold diversity' (Mill, 1974, pp. 120–2). Philosophically, it is exemplified equally by the liberalism of the English Idealists and 'new liberals' such as L. T. Hobhouse (Hobhouse, 1964). Perhaps more importantly yet, it is exemplified in the economic arena by the view that it is a proper task for the state to secure an expanded freedom for individuals by ensuring that they are not 'enslaved' by poverty, drink, unemployment, or having to work in inhumane conditions.

In practice it is exemplified by the 'modern' liberalism that leads to what classical liberals have depicted as the assault on freedom of contract and on the sanctity of property rights represented by the welfare legislation of Lloyd George before the First World War, by Roosevelt's New Deal between the wars, and by the explosion of welfare state activity after the Second World War. Modern liberalism is usually (but not always) agreed even by its critics to be a form of liberalism, for its underlying moral basis is couched in terms of freedom. Negatively, the aim is to emancipate individuals from the fear of hunger, unemployment, ill health and a miserable old age, and positively, the attempt to help members of modern industrial societies to flourish in the way Mill and von Humboldt wanted them to.

It is liberal, too, because it does not share the antipathies and hopes of a socialist defence of the modern welfare state. Although some defenders of the rights of property claim that almost any restriction on the absolute liberty of owners to dispose of their own as they choose amounts to confiscation (Epstein, 1985), and others have thought that any move in this direction is the first slippery step on the road to serfdom, modern liberalism has no confiscatory ambitions. Inasmuch as the ideals of the welfare state cannot be achieved without a good deal of government control of the economy, modern liberalism cannot treat property as sacrosanct, and cannot limit government to the repression of force and fraud; but distinguished modern liberals such as John Rawls argue that personal property is a necessary element in individual self-expression, especially by means of freedom of choice in careers, even if vast shareholdings are not (Rawls, 1971, pp. 272–4). Critics of modern liberalism usually insist that it is liberalism but a dangerous variety.

The fear that modern liberalism is inimical to the spirit of classical liberalism, and will in practice threaten the latter's gains, rests on two things. The first is the thought that modern liberalism is ideologically or metaphysically overcommitted. Mill's vision of man as a progressive being, with its demand that everyone should constantly rethink his, or more particularly her, opinions on every conceivable subject is one with at best a minority appeal. To found one's politics on a view of human nature that most people find implausible is to found one's politics on quicksand. There is no need to appeal to such a vision of human nature to support classical liberalism; conversely, other critics of modern liberalism have observed that it is not clear that the kind of independent and imaginative personalities by which Mill set such store are best produced in a liberal society. History suggests that many of them have flourished by resisting an illiberal and conservative environment (Berlin, 1969, p. 172).

The second is the thought that modern liberalism is politically and economically overcommitted; it makes everyone an unrealizable promise of a degree of personal

fulfilment that the welfare state cannot deliver, and which its efforts to deliver will inevitably frustrate. For one thing, people resent being forced to part with their hard-earned income to provide the resources that supply jobs, education and the various social services that modern liberalism employs to create its conception of individual freedom for other people. This creates a hostility between more and less favoured groups of citizens that is wholly at odds with what modern liberals desire. Moreover, the welfare state must employ an extensive bureaucracy whose members are granted discretionary powers and charged by law to use those powers for the welfare of their clients.

This means that the classical liberals' concern for the rule of law and the curtailing of arbitrary discretion is ignored, as bureaucrats have been given resources to disburse to their clients, and meanwhile the allegiance of the citizenry has been undermined, as the state has failed to produce the good things it has been asked to provide. The liberation the welfare state promises – liberation from anxiety, poverty and the cramped circumstances of working-class existence – is easily obtained by the educated middle class and is impossible to achieve for most others. There is thus a grave risk of disillusionment with liberalism in general as the result of its failure when it overextends itself. Some writers suppose that the worldwide popularity of conservative governments during the 1980s is explained by this consideration.

Varieties of liberalism: libertarianism and liberalism

There is a closely related but not identical divide within liberal theory, between liberalism and libertarianism. Just as in the case of the conflict between classical and modern forms of liberalism, there is a tendency for the partisans of one side or the other to claim that their version of liberalism is true liberalism and the alternative something else entirely. Contemporary libertarians often claim that they are classical liberals. This is not wholly true. There is at least one strand of libertarian thought, represented by Robert Nozick's *Anarchy, State and Utopia*, that advocates the decriminalization of 'victimless crimes' such as prostitution, drug taking and unorthodox sexual activities (Nozick, 1974, pp. 58–9). There is nothing of that in John Locke or Adam Smith.

The line between liberal and libertarian theories is not easy to draw. Both are committed to the promotion of individual liberty; both rest most happily on a theory of human rights according to which individuals enter the world with a right to the free disposal of themselves and their resources. The line of cleavage lies between the libertarian view that government is not a necessary evil but a largely – and for so-called 'anarcho-capitalists' a wholly – unnecessary evil, and the liberal view that government power is to be treated with caution, but like any other instrument may be used to achieve good ends. Perhaps the most important point of difference is that libertarians see our rights as a form of private property, what Nozick has called 'entitlements' (Nozick, 1974, pp. 150ff.). The individual is the owner of his or her person and abilities; so viewed, our rights have two sources only – our initial ownership of our own selves and capacities, and the claims on whatever resources and abilities other people have freely agreed to transfer to us. The state, if legitimate at all, may do no more than secure these rights. It has no resources of its own and cannot engage either in the redistributive activities of modern welfare states or in the quasi-charitable activities of such states.

Nobody has the right to deprive anyone else of their property by force – if they have committed no crime – and neither does the state.

This is in sharp contrast to the most famous recent account of welfare state liberalism, John Rawls's *A Theory of Justice*. In Rawls's account, we arrive at an understanding of what rights we possess, and of how far our liberty extends, by asking ourselves a hypothetical question: 'What rights would we all demand for ourselves and acknowledge in others if we were to establish a social and political system *de novo*, knowing nothing about our particular abilities and tastes, and therefore being forced to strike a fair bargain with everyone else?' (Rawls, 1971, pp. 11–17). Rawls's claim is that we should acknowledge two rights: the right to the most extensive liberty consistent with the same liberty for everyone, and a right to just treatment enshrined in the thought that inequalities are justified only to the extent that they improve the situation of the least advantaged (ibid., pp. 60–1).

This second principle is often called the maximin theory of justice, since it explains social justice as *max*imizing the size of the *min*imum holding of social resources. This principle is clearly inimical to any account of the state that restricts it to the defence of property rights. The introduction of a conception of social justice into the defence of a liberal political theory rests on the idea that individuals have a right to self-development, and therefore on the kind of theory of individual development that underpins Mill's *On Liberty* and alienates defenders of 'classical' liberalism.

All dualisms ride roughshod over a complicated world. There are forms of liberalism that are non-libertarian, but also more nearly 'classical' than 'modern liberalism'. Locke's *Two Treatises* is, on the face of it, more kindly to private property than the views of Rawls or Mill, and yet Locke shows none of the hostility to the state that libertarians do. The state is obliged to act according to the rule 'salus populi suprema lex' – 'the good of the people is the highest law' – and there is no suggestion that this is only a matter of repressing force and fraud (Locke, 1967, p. 391). On the other hand, there is also no suggestion that the least advantaged members of society have a right to do as well as possible. Locke suggests that they have to do well enough to make membership of civil society a good bargain – otherwise, they might as well emigrate to some unoccupied part of the world and start again – but he does not suggest that they have any claim beyond that (ibid., pp. 314–15). Certainly, Locke's individualism treats each person as responsible for his or her own welfare, but Locke's concern with our *moral* welfare rather than *economic* well-being means that he was more concerned with religious toleration than with 'health and human services'.

Liberal Antipathies

Because we are tempted to acknowledge that we are faced with liberalisms rather than liberalism, and also inclined to say that they are all versions of one liberalism, it is tempting also to suggest that liberalism is best understood in terms of what it *rejects*. Nor would it be surprising to come to such a conclusion. Conservatism is no easier to define than liberalism, and it is not infrequently observed that what conservatives believe is a matter of what they want to conserve and who threatens it. As noted above, Louis Hartz's *The Liberal Tradition in America* argued that conservatives in the United

States, as opposed to their counterparts in Britain and Europe, were in a bad way because the society and political system they want to conserve has always been a liberal one; temperamental conservatives are thus forced to be ideological liberals (Hartz, 1955, pp. 145–54). It is certainly true that many thinkers described as 'neoconservatives' might as aptly be described as 'neoliberals' – as they often are. However that may be, it is not implausible to argue that liberalism is well defined in negative terms. Its central commitment, liberty, is in general a negative notion – to be free is to be *not* in jail, *not* bound to a particular occupation, *not* excluded from the franchise, and so on – and the history of liberalism is a history of opposition to assorted tyrannies.

Anti-absolutism

One way of understanding the continuity of liberal history in this light is to see liberalism as a perennial protest against all forms of absolute authority. It is notoriously difficult to suggest a starting date for liberal political theory, or, rather, it is notoriously easy to suggest all sorts of starting dates, running from the pre-Socratics onwards, but notoriously difficult to find any kind of consensus on one of them. In British politics, for instance, it was only in the 1860s that the more radical members of the Whigs called themselves the Liberal Party. Yet it would be odd not to count Locke among early liberals, just as it would be absurd to call Hobbes a liberal even while one might want to acknowledge that he supplied many of the ingredients for a liberal theory of politics in the course of himself defending absolute and arbitrary authority as the only alternative to the anarchy of the state of nature and the war of all against all.

Whatever liberalism has been concerned with, it is has been concerned with avoiding absolute and arbitrary power. It is not alone in this. English constitutional theory had for several centuries an aversion to anything that smacked of confiding absolute power to anyone whatever. Neither parliament, nor the judiciary, nor the king was entitled to a monopoly of political authority. The imagery of the body politic was called upon to suggest that the elements in the political system had to co-operate with one another for the body to function coherently. What makes *liberal* hostility to absolute rule liberal rather than merely constitutionalist is the liberal claim that absolute rule violates the personality or the rights of those over whom it is exercised (Locke, 1967, pp. 342–8).

This argument connects Locke's *Second Treatise*, with its claim that absolute and arbitrary authority were so inconsistent with civil society that they could not be considered a form of government at all, with the twentieth-century liberal's contempt for the totalitarian regimes of Nazi Germany and Stalinist Russia. Liberals have disagreed about just which sorts of absolute authority are intolerable. Locke agreed that a general needed absolute authority over his soldiers in battle, and might shoot deserters out of hand. But this was not arbitrary authority – generals might shoot deserters, but they were not entitled to take sixpence from their pockets (Locke, 1967, pp. 379–80).

Locke argued that soldiers on the battlefield temporarily lost their right to be governed constitutionally; other liberals argued that whole peoples were still at a stage of political development where such a right did not exist for them. J. S. Mill thought the principles of *On Liberty* did not apply to people who could not benefit from rational discussion (Mill, 1974, pp. 69–70). Elizabeth I and Peter the Great had rightly exercised

unaccountable power over sixteenth-century Britain and eighteenth-century Russia respectively, and the despotic power of the East India Company over its Indian subjects was legitimate. The nineteenth-century British working class, on the other hand, was entitled to full civil and political rights, and women of all classes as much as men. Other liberals have been rather less ready to describe entire populations as 'childish', and have thought absolute authority over the inhabitants of their colonial possessions as indefensible as any other absolute power.

The thought behind liberal opposition to absolute power is not complex, although it has several strands. One is the idea that political authority exists for purely secular ends, towards which we should adopt a rational, scientific attitude, adjusting our political institutions and our policies in an instrumentally efficient way. Negatively, this means that liberals do not see authority as conferred either by the voice of God, as in theories of divine right or charismatic authority, or by the dictates of history as in Marxist theory, or by racial destiny as in Nazi theory. Authority exists only to enable a society to achieve those limited goals which a political order enables us to achieve – the security of life, property and the pursuit of happiness (Locke, 1956, pp. 128–9).

It follows that nobody can claim absolute power, since their title to exercise power rests on their ability to pursue these limited goals in an efficient fashion. A second idea that reinforces the first is that the content of these limited goals can only be set by attending to the opinions of all the people under that authority, or at least all those who have not shown themselves to be anti-social or a menace to the political order. To exclude anyone's views is to devalue them; it is also to deny what liberalism relies on for its effect as a moral argument, the claim that we are born free and equal (Dworkin, 1985, pp. 191ff.). As free, we must be persuaded to give our allegiance, and as equal, we must be obliged on the same terms as everyone else. This means that government must listen to the people, and cannot therefore take to itself any kind of absolute power (Rawls, 1971, pp. 221–3).

A third element provides much of the anti-totalitarian energy of modern liberalism. Free and equal individuals must be so recognized in the legal system as well as in the political system narrowly conceived. They must be free to form associations for their own purposes, and to engage in varied social, commercial and intellectual activities. Absolute authority is inimical to and unwilling to share control over the lives of the citizenry with the leaders of other, secondary groups. The history of twentieth-century totalitarian states indeed shows that such states have always destroyed the independent authority of all other associations they could lay hands on. Liberals believe that the energy and liveliness of a society comes from these secondary allegiances, and therefore that absolute power is both an affront to the moral personality of individuals and destructive of the life of society at large (Dworkin, 1985, pp. 193–200).

Anti-theocracy

The opposition to absolutism, which links Locke to Mill and both of them to Rawls, Dworkin and contemporary liberal thinkers, had its origins in another issue. This was the liberal hostility to the confusion of secular and religious authority, and the liberal obsession with the rights of conscience. It has often been pointed out that the first usage of the term 'liberal' in a political context was in the context of European anti-clerical

politics in the nineteenth century. For many Roman Catholics the term 'liberal' was, except when used to qualify 'education', a term of abuse. Voltaire was not a wholehearted liberal, but the cry of '*écrasez l'infame*' with which he attacked the repressive and brutal power of the Catholic church in eighteenth-century France became a rallying cry of anti-clerical liberals all over Europe.

Liberalism was associated with the nineteenth-century movement of European ideas that was concerned to drive a wedge between church and state and to make the Catholic church no more influential in the politics of Catholic countries than the various Protestant churches were in the countries where they flourished. In essence, the argument was an argument in favour of religious toleration and against any kind of religious monopoly.

It is sometimes thought that toleration arises when people are convinced that there is no way of knowing what the truth is in matters of religion, and that toleration is the fruit of scepticism. But this is quite wrong. Hobbes was a sceptic, but he was also deeply hostile to supposed *rights* to toleration. It is this that marks him as a non-liberal. The advocacy or denial of toleration as a matter of right divides the liberal and the non-liberal more sharply than anything else. For Hobbes, religious doctrines were too important to be left to private men to pick and choose; even if those doctrines were intellectually quite absurd, they stirred up the passions and so threatened the peace. It was thus the task of the sovereign to regulate what might and might not be said in public on all such matters; if the sovereign failed in this duty, the peace would be broken – exactly the outcome which the sovereign existed to prevent (Hobbes, 1991, pp. 124–5).

Locke put forward the modern doctrine of toleration some thirty years after Hobbes. In Locke's eyes, there were two distinct realms, the sacred and the secular. Locke thought the first much more important than the second, but he also thought that secular authority was quite impotent to achieve anything useful in that realm. The political realm dealt with what Locke termed *bona civilia*, the goods of earthly peace and security, that he otherwise characterized as life, liberty, property and physical well-being (Locke, 1956, p. 128). A sovereign who tried to dictate how we practised our religion was overstepping the proper bounds of his authority. Conversely, a church that tried to dictate the secular law was overstepping the bounds of its authority. The state was essentially a non-voluntary organization, and one to which we owed obedience willy-nilly; churches were essentially voluntary, and probably plural.

Locke was, as Hobbes was not, a devout Christian, who thought a great deal about religion as religion, rather than from a sociological perspective. It was this that made Locke a passionate defender of toleration. One of the arguments in favour of toleration and against the mingling of church and state was precisely that human beings – especially late seventeenth-century human beings of a Protestant persuasion – were extremely tender about matters of conscience. To force someone to assert a belief he did not really hold was to outrage his deepest nature.

Where Hobbes had suggested that men quarrelled over matters of conscience because there was next to nothing to be known about religion by the light of reason alone, and therefore ought to be made to assert something in common, simply for the sake of peace, Locke was committed to the view that God required a willing assent, and a real faith, so that whatever kind of forced assent the state might induce us to make was an insult

to God as well as an outrage upon the individual (Hobbes, 1991, pp. 260ff.; Locke, 1956, pp. 132–3).

Conversely, true religion can make no demands upon the state. This is a view that modern readers find harder to accept. Locke thought it impossible that there might be a valid religious reason for a group to do anything that might come into conflict with the ordinary criminal law. Thus he would have differed with most liberals of today over the 1990 case in which the American Supreme Court found that the First Amendment guarantees of religious liberty did not entitle Native Americans to use the hallucinogenic drug peyote in their religious rituals once the state of Oregon had banned the consumption of peyote.

Locke would have sided with the Court, but many contemporary liberals thought the demands of any religion should weigh more heavily than that. Locke also confined toleration to opinions that did not threaten the political order; modern readers are often shocked to find that neither Roman Catholics nor atheists would be tolerated in any society that followed Locke's prescriptions. In both cases, the argument was that they were *politically* dangerous: atheists lacked motives to keep their promises and behave decently, while Catholics professed earthly loyalty to the Pope and so could not be relied on by the rulers of whatever state they happened to belong to (Locke, 1956, pp. 157–8).

This reflected Locke's sharp distinction between those matters over which secular authority might be exercised and those over which it must not. Locke argued that earthly governments existed for certain simple tasks, and no others – an argument that depended very heavily on the idea that it is obvious what the function of earthly government is, and that it is does not include saving men's souls. Mill's *On Liberty* took a different route to much the same conclusion, not by arguing that it was obvious what the function of government was, but by showing that a consistent utilitarian who believed in the importance of individuality and moral progress must agree that coercion, especially the organized coercion exerted by governments, was legitimate only to defend certain this-worldly interests – the protection of our own liberty and security above all else (Mill, 1974, pp. 119ff.; Gray, 1983; 2000).

Mill's argument is no more conclusive than Locke's. Someone who advocates the intertwining of secular and spiritual authority, where the state supports a national church and the religious hierarchy sustains the authority of political leaders, may ascribe no value to individuality for its own sake, and believe that an enlarged freedom would lead to depravity rather than moral progress. Anyone who demands the union of spiritual and secular authority on this basis has to be answered on the empirical level rather than by appeal to ideals that *ex hypothesi* are not agreed. In the second half of the twentieth century, liberals have generally taken a less rhetorical, more practical line than Locke and Mill. They have argued that totalitarian regimes, the lineal descendants of confessional states, have two great drawbacks. The first is that they employ a distasteful amount of force in securing their goals. Because it is so difficult to tell whether one's subjects are really saved, genuine in their professed Communism, or really loyal to the Nazi party, or whatever, the temptation is to pile on the penalties for dissent, and to engage in acts of exemplary brutal punishment, which does little to secure a real loyalty to the regime and much to make its rulers insecure when they contemplate the hatred of the population they have intimidated (Arendt, 1968).

The second drawback is that such regimes are inefficient; they may be effective when fighting a real, all-out war, but they are economically less efficient than liberal societies in which the division of labour between the sacred and the profane is respected in approximately the form Locke laid down. On the whole, these considerations are well founded; but whether this practical argument captures the liberal's deepest beliefs is doubtful. It is hard not to suspect that liberals feel more passionately than that about the wickedness of totalitarian regimes and for that matter about the wickedness of authoritarian clerical regimes of the kind typified by the Spain of General Franco. When they feel passionately about such regimes, it is in much the same way as Locke, for modern notions of the violation of personality reflect, in a secularized fashion, Locke's view that the imposition of belief on any individual was an affront to that individual and God their creator (Rawls, 1971, pp. 205–11).

Anti-capitalism

The history of hatred for despotism, theocracy and the modern union of the two that is reflected in totalitarianism is a long history. The third of liberalism's antipathies has a shorter history. From the middle of the nineteenth century until today, one strand of liberalism has regarded capitalism as an enemy of liberty (Mill [1848] 1965, pp. 766–9; Dewey [1931] 1984). This marked a great reversal in the history of liberalism. It is not a large oversimplication to say that until the early nineteenth century there was no question of opposing liberalism to capitalism. The movement of ideas and institutions that emancipated individuals from tradition, that insisted on their natural rights, and demanded that 'careers should be open to talent' rather than birth, was a seamless whole.

Just as a man must think for himself, so he must work for himself; just as society would progress only if each person took responsibility for their own ideas and moral convictions, so it would flourish economically only if everyone stood on their own two feet. How far this was an articulate defence of capitalism as such is debatable; the term 'capitalism' itself did not come into general use until the late nineteenth century, and it is difficult to decide how appropriate it is to characterize as capitalist societies which possessed nothing one could call a proletariat, where the great majority still lived in the countryside and worked on the land, and which thought of themselves as 'commercial societies' rather than 'capitalist economies' (Smith, 1976, pp. 399–403).

Moreover, many of the rights to dispose of property just as one wished, to work for anyone willing to employ one, and to contract with anyone for any purpose not obviously damaging to the security and good morals of the commonwealth, had been established by successive decisions made by judges appealing to the English common law rather than by legislation of a self-consciously liberal kind. Still, there is an obvious affinity between liberalism and the rule of private property and freedom of contract. The liberal view that the individual is by natural right, or by something tantamount to it, sovereign over himself, his talents and his property is at once the basis of limited government, the rule of law, individual liberty and a capitalist economy.

But it was apparent from the beginning that property might be employed oppressively as well as harmlessly or beneficially. Apart from the conflict between the rights

of property owners and the traditional claims of rural workers – such as customary claims to gather wood or to glean in the fields or to take small game – there was a more general conflict between the liberty of the large property owner to do what he chose with his property and the impossibility of his workers or competitors striking anything like a fair bargain with him. Throughout the nineteenth century, the sentiment grew that if it had once been necessary to liberate the entrepreneur from misguided or oppressive government, it was now necessary to liberate the worker and consumer from the tyranny of the capitalist (Hobhouse [1911] 1964, pp. 22–4, 82–4; Green, 1892, pp. 366–70).

Mill observed that the modern wage labourer had as little real choice of occupation as a slave had had in antiquity. In that spirit, he defended the right of working people to organize into trade unions to even the balance of power a little. T. H. Green and L. T. Hobhouse went further, suggesting that capitalism exerted a kind of moral tyranny over the ordinary person, as exemplified by the spread of drinking establishments that destroyed both the health and the self-respect of their victims (Green, 1892, pp. 380–5). 'New Liberalism', exemplified in Britain by the social policy of the Asquith government of 1908–16, and in the USA by the demands of the Progressives and the practice of the Democratic Party after the 1932 election of Franklin D. Roosevelt, had many positive ambitions but one negative assumption was that the working man needed to be freed from the power of the capitalist. It is this that explains the seeming paradox that late twentieth-century conservatives are often characterized as 'neoliberals'. The contemporary defence of property rights is not, as it was two centuries ago, the defence of landed property against commercial and industrial capital, but the defence of nineteenth-century *laissez-faire* and the property rights of commercial and industrial capital against modern reformers.

Liberal Prescriptions

The tidiness of a definition of liberalism couched in terms of its oppositions is only apparent. Certainly, liberalism is anti-despotic, anti-clerical and hostile to twentieth-century manifestations of those evils, including the perverted manifestations of totalitarianism. But, just as there is a tension between classical and modern liberalisms, the same tension reappears between pro- and anti-capitalist liberalisms. And just as most liberals would not wish to pursue the goals of the welfare state to the lengths of threatening the survival of limited, lawful government, so they would not wish to restrain the operations of a capitalist economy to the point where it turned into a command economy. Whether we start from liberal enthusiasms or liberal antipathies, we find the same controversies.

The wish to find a position that is intellectually attractive and politically responsible exposes liberals to accusations of not knowing their own minds or of being 'wishy-washy'. Liberals have retorted that it is not their fault that the world is a complicated place that requires nuanced handling. One way of underpinning that reply is to provide the positive liberal theory that explains both why liberalism is hostile to the threats to freedom that it encounters and why these threats have varied over time.

A theory for individuals

In spite of the suggestion that liberalism should confine its attention to political institutions, liberalism is best understood as a theory of the good life for individuals linked to a theory of the social, economic and political arrangements within which they may lead that life. John Rawls's *Theory of Justice* provides some persuasive arguments for the view that we should build a liberal theory for institutional design without committing ourselves to any particular view of 'the good life', and its eventual unconvincingness tells us a lot about why a broader theory is needed.

Rawls argues that the search for a consensus in favour of liberal political and economic institutions will go more smoothly if we seek foundations that are neutral with respect to the great, but sharply contested, issues of religion and personal ethics (Rawls, 1989, pp. 233–8; 1993). Critics have noted, however, that Rawls's minimalist assumptions about 'the good life' remain decidedly liberal – he takes it for granted that slavery is an unspeakable evil, that the suppression of conscientious belief is so intolerable that no rational person could trade the chance of being in command of the Inquisition for the risk of being one of its victims, and that freedom of choice in career and lifestyle is essential for life to have any meaning.

The same critics have also pointed out that the principles of justice proposed by Rawls are not suited to absolutely anyone but especially to persons holding a late twentieth-century conception of themselves and the meaning of their lives. The thinness of the premisses about human nature and the human good that Rawls builds on do not reflect scepticism or a lack of moral conviction so much as the eminently liberal thought that each person is in command of his or her own moral destiny, and that it is not for others to dictate it, as Rawls has subsequently tended to agree (Rawls, 1975; 1993).

At all events, liberalism viewed as a doctrine for individuals can be understood in terms one might borrow from Immanuel Kant, Wilhelm von Humboldt, J. S. Mill, Bertrand Russell or John Dewey, since a variety of formulations seize on the same points. The essence is that individuals are self-creating, that no single good defines successful self-creation, and that taking responsibility for one's own life and making of it what one can is itself part of the good life as understood by liberals. Dewey labelled this experimentalism; Kant defined it as the spirit of the Enlightenment; Mill borrowed from von Humboldt to argue that the fundamental aim is to develop human nature in all its diversity (Mill, 1974, pp. 121–2; Dewey, 1984, pp. 114–20; Kant, 1991, pp. 53–4).

Its positive attractions become clearer when they are contrasted with pre-liberal or anti-liberal views. *Self*-discipline is a great good, because nobody can conduct 'experiments in living' without the self-control that allows them to stand back and assess their success or failure; submission to discipline, as praised by many Christian writers, and before them by Plato, is not a good in itself (Plato, 1941, pp. 127–40).

Attachment to one's country and fellow citizens is a great good, because few human virtues flourish except against a background of loyalty and strong fellow feeling; 'my country right or wrong' is an illiberal sentiment, suggesting an immersion in patriotic sentiment inconsistent with the ideals of individual autonomy.

Plato condemned democratic Athens for its attachment to diversity and variety; liberals condemn Athens for being insufficiently hospitable to diversity and variety as

good in themselves. Pericles' famous funeral speech praises the Athenians for their willingness to allow others to live as they pleased, but suggests no positive enthusiasm for variety as a human good, denies that women have any place in public life, and ranks politics higher than any private good. Liberals generally praise public spirit, and most at any rate would agree that in time of crisis we are obliged to put aside our private concerns and do what we can for our country, but they would also see this as a *sacrifice* of one good for another, while Pericles was true to the classical ideal in ranking the goods of private life much lower than the goods of public life (Thucydides, *Peloponnesian War*, pp. 143–51).

It is true that liberalism has no single positive picture of 'the good life for man'. It is true because liberals have commonly been empiricists, and inclined to believe that only experience can reveal what really conduces to individual flourishing, and also because liberals have often been pluralists and have thought that autonomous individuals might choose a great variety of very different, but equally good lives (Berlin, 1969, pp. 172–4; Crowder, 2004). It is not, as critics often maintain, that liberals elevate choice to the only absolute good; no liberal would applaud a life of crime merely because the criminal had chosen it. It is, however, true that most liberals have thought that the kind of autonomous individual they have admired can only become a fully autonomous being by exercising his or her powers of choice. Some people may strike lucky, and find what suits them without very much exploration of alternatives; others may need to search much longer. But a person incapable of making a choice and sticking to it will have little chance of leading a happy life.

This vision is not uncontroversial, and it is unattractive to many critics. It is unsympathetic to a vision of an orderly universe in which the best lay down the rule of life to the rest of us; it is anti-aristocratic, at odds with a belief in Platonic guardians, Aristotelian aristocrats, and the Catholic Christian tradition's claim to know what we must do to be saved. Conversely, it is too strenuous for anyone who thinks most people do well enough by thoughtlessly following the habits and customs of their fellows. It is too optimistic for anyone who believes in the essential depravity of the human race. Liberals look for improvement, not merely to prevent our worse natures getting out of hand. Writers like Joseph de Maistre and Georges Sorel have not unpersuasively ridiculed this outlook.

Looked at from the other side, it can be criticized as insufficiently serious about its own premisses. Nietzsche claimed that liberals did not take choice seriously, since they assumed that everyone would share their ideas about what constituted good choices and good reasons for choosing one way rather than another. His successors in the existentialist tradition made essentially the same point. As observed before, liberals are uncomfortably aware that they can seem equivocal at worst or wishy-washy at best in their attempts to steer a tidy course between the critics who complain that they overestimate the value of autonomy and critics who complain that they have not understood that human freedom is a curse and a source of anguish rather than an achievement. It is too late in the day to rely on Aristotle's claim that the truth in these matters is to be found in the mean between extremes, but the liberal can at any rate reply that there is no more reason to suppose that it lies in the extremes than in the ground between them that liberalism occupies.

A theory for society

It is a common complaint against liberalism that it undervalues the role of community. Over the past fifteen years this has been a constant refrain, but it replicates the complaints made by critics of philosophical radicalism in the early 1800s and by philosophical idealists in the late 1800s (Sandel, 1982, *passim*). One response to the complaint might be to list those liberals who took the role of the community entirely seriously – they include de Tocqueville, Mill, T. H. Green, L. T. Hobhouse, Emile Durkheim, William James and John Dewey. This is only the starting point for an answer to the question whether liberalism has or even can have a liberal theory of society. The answer is plainly that it can and indeed that it does. In fact, one might argue that it is only because liberals are so impressed by the ways in which society moulds and shapes the lives of its members that liberals are so eager to ensure that society does not also cramp and distort those lives.

Sociologists used to claim that their opponents were attached to a contractual account of society, and by this they meant that their opponents believed that society literally had its origins in some kind of agreement. Although it is plain that no contemporary liberal would think anything of the sort, it is true that liberals find it illuminating to think of society as if it involved a sort of contract. The authority of the group over the individual is not absolute, but extends only to the hypothetical terms of a bargain by which individuals agree to accept that authority (Nagel, 1991, pp. 33ff.). The terms of the bargain are what remain in dispute. In his essay *On Liberty* Mill essentially treated it as a compact for self-protection. Society was, as it were, a device for lending individuals the force of the whole group in fending off attacks on their persons and property (Mill, 1974, pp. 119–22).

This only covered the coercive authority of society. A more elusive topic was what a liberal society would look like, going beyond the question of what rules it might properly enforce on its members. Just as in the case of its account of the values that give point to an individual existence, liberalism is to some extent hampered in giving a very rich account by its attachment to the value of choice. Once we have said that a society full of liberals would be replete with voluntary associations devoted to enhancing the existences of all their members, there is little more to say. We may agree that a liberal would think it desirable that stamp collectors should get together and discuss their enthusiasms, exchange stamps, circulate journals about their hobby and all the rest, but it defies the imagination to offer a liberal theory of philately.

Liberals would object strongly to any regime which made philately difficult – it would be a pointless interference with liberty – and would divide on the question whether a government might properly assist philatelic societies to get started by a temporary subsidy, as liberals have always divided in their attitudes to government assistance for art, education and high culture. Beyond that, the liberal answer to the question of what a society attached to liberal principles would actually look like is that the answer is a matter for the society in question. It might have many churches or none, a multitude of different schooling systems or one, an effective public transport system or not; what would matter would be that the human rights or individual liberty of its members were respected in the process of reaching these outcomes. In particular,

liberalism is agnostic about what the implementation of the vision of a society of free individuals entails for the economic arrangements it embraces. Certainly, too many state controls threaten liberty; a state monopoly of employment threatens liberty (Rawls, 1971, pp. 377ff.). So does a capitalism that allows rich men to buy politicians. Where the best feasible regime lies is a matter for experiment.

A theory for the state

What applies to society does not apply in the same way to the state. Society is the realm of both informal and formal associations, a realm in which public opinion plays some coercive role, but there is much scope for voluntary association; in a manner of speaking society is a plurality of smaller societies. The state is essentially the realm of coercively sanctioned co-ordination, and its essence is that it has no competitors or alternatives. That a liberal state must operate according to the rule of law goes without saying; that it must employ as little coercion as possible in its dealings with its citizens also goes without saying. What is more hotly contested is whether liberalism dictates any particular form of government.

Liberals have historically thought at one time that liberalism was threatened by democracy, and at another that liberalism entailed democracy. What liberalism is always committed to is *constitutional* government. Save in emergencies, where the preservation of a liberal regime may force governments to take powers that would otherwise be intolerable, the requirements of the rule of law extend to the ways in which governments acquire power and exercise it. How this is achieved has no fixed answer. It is an ongoing argument whether the British view that governments are kept liberal by public opinion and fear of the voter is more or less plausible than the American view that a written constitution and a formal Bill of Rights are uniquely effective. It is more than plausible that such institutional devices as an independent judiciary, a diverse and free press, and a great variety of watchdog organizations, such as the US Council for Civil Liberties, are all of them useful, and that one needs both the formal protections of American constitutionalism and a liberal-minded citizenry that makes them more than parchment barriers to oppression (Madison, 1987, Paper 48, p. 309).

This leaves the connection between liberalism and democracy for further analysis. If democracy is just a matter of majority rule, it is a contingent matter whether the majority will generally subscribe to liberal views. If they do, there will be a liberal democracy; if not, not. Various devices may be set up to restrain the majority, such as an entrenched Bill of Rights, but all such devices favour liberty by restricting democracy. They are intrinsically undemocratic insofar as they restrict the authority of the majority. On the whole, this view was the view of Jefferson, de Tocqueville and Mill, who were correspondingly anxious to educate the fledgling democracy of their day in order that democracy should not be majority tyranny (de Tocqueville [1835] 1964, pp. 269ff.; Mill, 1974, pp. 62ff.).

The alternative view is that liberalism is committed to democracy, and that illiberal democracy is not democracy at all. Each individual has a right to take part in the decisions that affect his or her society. Nobody ought to be governed without their voice being heard, for that is a violation of their human rights, or of their right to be treated

as a free and equal member of their society (Dworkin, 1985, pp. 193ff.). To the objection that majority rule may be inconsistent with liberty, the sophisticated reply is essentially that the *authority*, as distinct from the power, of the majority is intrinsically self-limiting. We cannot claim the right to vote, for instance, on terms that violate others' rights. On this view, a Bill of Rights does not limit the majority's authority so much as spell out what its authority is. Liberal democracy is not something one may realize if one is lucky; the only legitimate democracy is liberal democracy.

However we decide between these two conceptualizations, liberal government must be limited government. Freedom of conscience, freedom of occupational choice, privacy and family rights all place limits on what governments may do. Limited government may nonetheless be active government; securing these rights will keep government busy. More to the point, liberal governments will inherit many illiberal arrangements from their predecessors. Abolishing racial and sexual discrimination in the United States has been neither quick nor easy. Reducing the effects of inherited privilege in the United Kingdom has hardly begun. A government that takes liberalism seriously will be a busy government, especially since it will also have to be ingenious in pursuing its goals through lawful channels.

On this point, defenders of 'classical' and 'modern' forms of liberalism can agree. Both deplore the advantages of monopolists; sexual and racial discrimination, and the advantages of inherited position, share in the wickedness of monopolies, for they give undeserved advantages to their beneficiaries and undeserved handicaps to their victims. It may be that 'classical' liberals suppose that once a 'level playing field' has been achieved, it will remain level, while modern liberals suppose that it will need constant attention. It is certainly true that modern liberals emphasize the 'equal' in equal opportunity, where their predecessors perhaps stress 'opportunity', and have no particular liking for equality of any other kind. Still, the point remains that limited governments need not be inactive or lazy governments.

A theory for the international community

Two distinct aspects of liberal thought have come to prominence in the past two decades. They are both, in a sense, aspects of 'international' or 'cosmopolitan' liberalism, but they are very different. One is the issue of global or transnational distributive justice; this starts from what some critics thought was a lacuna in John Rawls's *Theory of Justice*. To call it a lacuna is perhaps an error: Rawls argued explicitly against any attempt to extend his account of the moral basis of a liberal democratic welfare state beyond the nation-state, although he subsequently wrote at length about the ways in which a liberal state ought to relate to illiberal states, on the one hand, and economically dysfunctional states, on the other (Rawls, 1999). The second is the issue of what some writers have termed 'liberal imperialism' or 'liberal interventionism'; it raises the question of the conditions under which a liberal state that possesses the military ability to do so may intervene in the affairs of another state, and for what purposes. This is not a wholly novel question; nineteenth-century defences of Western imperialism in terms of a 'civilizing mission' provide an answer, if not to the question of when intervention is legitimate, at any rate to the question of what the imperial authority is to do once it is in control of a new territory.

These two issues are best tackled separately, although a sufficiently expansive view of international distributive justice might lead to the conclusion that a government that was wholly economically inept had forfeited its authority over its subjects and ought to be replaced by whatever better arrangements an outside power could contrive. The more obvious route, however, is to begin by observing that if Rawls's account of justice within a liberal society is attractive, it is tempting to apply it internationally. Rawls argued that the resources for a self-respecting existence should be distributed equally save when an unequal distribution was in the interests of the worst off. The test of a just arrangement was whether the worst off were as well off as it was possible for them to be. Several writers immediately raised the question why this standard of justice should not apply globally (Pogge, 1989). There are several problems about a translation of the principle onto the global stage, one of the most obvious being that in the absence of a world government, the property rights regime that the principle's implementation would require is hard to envisage. That thought in turn might lead to the view that liberal governments ought to co-operate to create international conventions that would provide – say – ways of allowing landlocked countries to share the resources of the sea, or resource-poor countries to share in the bounty of the resource-rich countries. How far these views are distinctively liberal rather than more broadly egalitarian is another matter (Nussbaum, 2006). Two ways in which they might be thought to be distinctively liberal is in seeking solutions through international co-operation between free states, and in emphasizing, as some writers have done, the importance of free institutions within states as the only certain road to prosperity (Sen, das Gupta, Nussbaum).

That, however, leads directly to the question of the role of liberal states on the world stage, and in particular to what is sometimes called liberal interventionism. This is a very large subject, whose boundaries are ill defined. Liberals must be torn between two thoughts: the first is that the guiding principle of liberal politics must be the promotion of freedom wherever and whenever it can be promoted; the second that it is up to individuals, communities, societies and states to see to their own affairs and to espouse whatever ways of life they (freely) decide on. The first might suggest that where it is possible to remove tyrannical regimes and to replace them with liberal regimes, it would be right to do it; the second suggests just the opposite, that only the persons whose freedom is at issue are entitled to act. The issue is inextricably intertwined with that of more broadly humanitarian intervention; if the rulers of a tyrannical state are threatening genocide or conniving at it, it is not only liberals who think that the international community, preferably, or failing that, any state or coalition of states with the capacity to intervene may intervene to prevent genocide. Nor is it only liberals who think that if a state is so tyrannical or incompetent that its subjects are faced with famine and destitution, outsiders may intervene to rescue those subjects from their fate.

The more distinctively liberal position is, at a minimum, that where there are other grounds to intervene, the intervening powers should try to develop liberal-democratic political institutions to replace the previous regime, not least in order that there need be no future interventions. The NATO intervention in Kosovo in the late 1990s is an instance of such an intervention; its motive was to protect the Albanian population from what could have been represented as the incipiently genocidal policies of the

Serbian national government, but its mission has been broadened to embrace a 'nation-building' programme intended to install liberal-democratic institutions and the rule of law. What one might term the 'maximalist' liberal interventionist programme would be to imagine a constant readiness to intervene to push unattractive regimes towards liberal democracy. Much as there is some doubt whether libertarianism is better described as 'neoliberalism' or 'neoconservatism', so there is some question whether this maximalist programme is 'neoconservative' or the latest offspring of nineteenth-century imperialism with its aspiration for a civilizing mission. The arguments against the maximalist programme from the point of view of prudence are clear enough: the only institutions that are likely to work over a long period are those that a society develops for itself, and any attempt to force liberalism on a recalcitrant population will probably be a waste of time and resources, and in extreme cases of blood as well. What is less obvious is whether it is simply incoherent to propose that those who cannot or will not liberate themselves may be 'forced to be free' by outside powers.

Success or Failure?

It is a task of some delicacy to sum up the successes and failures of the liberal project. In the terminology of practising politicians, it has been avowed conservatives who have prospered in the Western democracies over the past two decades, though they have often been at odds among themselves as to whether they were conservatives *tout court* or 'neoliberals', trying to revive the political and economic ideals of the early nineteenth century. 'Roosevelt liberals', on the other hand – enthusiasts for an expansive welfare state and for an energetic egalitarianism in social and economic policy – have done rather badly. Here, too, however, it is an open question whether the voting public in the Western democracies have turned against the liberal welfare state, or have merely decided that they are grateful for what they have received and are sceptical about the chances of going much further.

One success for the liberal project is the recent, striking collapse of Marxist regimes worldwide. Since Marxist governments drew their legitimacy from the supposed superiority of Marxian socialism over its liberal alternatives, the wholesale failure of Marxist regimes in all possible respects – their failure as economic systems, their inability to secure the political loyalties of their subjects, their failure to secure the human rights of the citizenry, and so on – in effect amounts to a practical demonstration that liberalism of some kind has won.

In this contest, it is liberalism only in the very broadest sense that has triumphed – that is, a liberalism that stresses human rights, economic opportunity and the values of the open society, rather than one with narrower party political attachments. This liberalism has triumphed, not only over Marxism, but also over the illiberalism of nationalistic military regimes of the kind that once held power all over Latin America. It has, up to a point, triumphed over the apartheid regime of South Africa. Whether a narrower liberalism is particularly popular is another matter entirely, as is the prospect of any kind of liberalism making inroads into military dictatorship in Asia and most of Africa.

That it is only liberalism in the broadest, non-party political sense that has triumphed is obvious enough. Western conservatives do not support theocratic absolutism, or government by divine right, but would still reject the liberal label as a description of their politics. Liberalism has been equally criticized for the past forty years or so from another direction for its lack of interest in political participation and the development of an active citizenry. Writers who take their cue from classical republicanism think, as do the communitarians, that the liberal view of the individual is of someone essentially cut off from public life, concerned with affairs that are private in the sense of being jealously protected from everyone else. This, they argue, makes for a less healthy politics than the participatory politics described by Aristotle, Machiavelli and other republican writers.

On the republican view, there is certainly a place for the negative liberty – immunity from oppression by the government or any other powerful organization or individual – that liberalism puts at the front of its political demands. But this liberty cannot be preserved unless the citizenry is active in preserving it. In effect, one republican complaint is that liberalism is unable to offer a coherent story about how liberal goals are to be secured, while the other is that liberalism in action tends to turn individuals in on themselves, encourages them to quit the public stage and concentrate only on domestic or economic goals. To this, many liberals reply that the French Revolution of 1789 is a sufficient warning about the dangers of trying to make ancient republicans out of modern Frenchmen, and by the same token, out of modern Americans, Australians or Englishmen, too – as Benjamin Constant's 'Essay on the Liberty of the Ancients Compared with That of the Moderns' pointed out in 1818 (Constant, 1990, pp. 309–12). Having said so, however, they are as quick as anyone to lament the failure of public spirit and political engagement that seems to afflict the Western world at the end of the twentieth century.

The liberalism that has triumphed, then, is not an intellectually rigorous system, manifested in its only possible institutional form. It is an awkward and intellectually insecure system, committed to democracy tempered by the rule of law, to a private enterprise economy supervised and controlled by government, to equal opportunity so far as it can be maintained without too much interference with the liberty of employers, schools and families. It by no means embraces *laissez-faire* with the same fervour that Marxism brought to its attack on property and its passion for rational, central control of economic activity, a point made eloquently some forty years ago by Daniel Bell (Bell, 1961, pp. 393–407). Moreover, the inhabitants of liberal democracies are deeply, and properly, conscious of the shortcomings of their societies, and certainly feel their 'success' is an equivocal one.

To know how permanent the success of liberalism is, or how complete it is, one would need a crystal ball rather than the resources of philosophy or political science. In any case, a liberal society can never be more than a partial 'success' by its own standards; its aspirations for the individual, for society and for the conduct of government guarantee that its ambitions will always exceed its performance. On the other hand, its members may, under most circumstances, feel that their failures are only partial and temporary, and that the way in which liberalism institutionalizes self-criticism is itself a guarantee of some progress, even if it is also a guarantee of permanent dissatisfaction.

References

Arendt, H.: *Totalitarianism* (1951); (New York: Harcourt, Brace and World, 1968).

Bell, D.: *The End of Ideology* (New York: The Free Press, 1961).

Berlin, I.: *Four Essays on Liberty* (Oxford: Oxford University Press, 1969).

Constant, B.: *Political Writings*, ed. B. Fontana (Cambridge: Cambridge University Press, 1990).

Crowder, G. C.: *Isaiah Berlin: Liberty and Pluralism* (Cambridge: Polity Press, 2004).

Dewey, J.: *Individualism Old and New* (1931); (Carbondale, Ill.: Southern Illinois University Press, 1984).

Dworkin, R.: 'Liberalism', in *A Matter of Principle* (Cambridge, Mass.: Harvard University Press, 1985), pp. 181–204.

Epstein, R.: *Takings: Private Property and the Power of Eminent Domain* (Cambridge, Mass.: Harvard University Press, 1985).

Gallie, W. B.: 'Essentially contested concepts', *Proceedings of the Aristotelian Society*, 56 (1956), 167–98.

Gray, J.: *Mill on Liberty: A Defence* (London: Routledge & Kegan Paul, 1983).

—: *Hayek on Liberty* (Oxford: Blackwell, 1984).

—: *Liberalism* (Milton Keynes: Open University Press, 1986).

—: *Two Faces of Liberalism* (Cambridge: Polity Press, 2000).

Green, T. H.: 'Liberal legislation and freedom of contract' (1874), in *Collected Works* (London: Macmillan, 1892).

Hartz, L.: *The Liberal Tradition in America* (New York: Harcourt, Brace and World, 1955).

Hayek, F. von: *Law, Liberty and Legislation*, 3 vols (London, Routledge & Kegan Paul, 1973–9).

—: *The Mirage of Social Justice* (London: Routledge & Kegan Paul, 1976) (vol. II of the above).

Hobbes, T.: *Leviathan* (1651); (Cambridge: Cambridge University Press, 1991).

Hobhouse, L. T.: *Liberalism* (1911); (New York: Oxford University Press, 1964).

Kant, I.: *Political Writings*, ed. Hans Reiss (Cambridge: Cambridge University Press, 1991).

Locke, J.: *A Letter on Toleration*, in *Second Treatise on Government* (1689), ed. J. M. Gough (Oxford: Blackwell, 1956).

—: *Two Treatises on Civil Government* (1690), ed. P. Laslett (Cambridge: Cambridge University Press, 1967).

Madison, J. et al.: *The Federalist* (Harmondsworth: Penguin Books, 1987).

Mill, J. S.: *On Liberty* (1861); (Harmondsworth: Penguin Books, 1974).

—: *Principles of Political Economy* (1848); (Toronto: University of Toronto Press, 1965).

Nagel, T.: *Equality and Partiality* (Oxford: Oxford University Press, 1991).

Nozick, R.: *Anarchy, State and Utopia* (New York: Basic Books, 1974).

Nussbaum, M. C.: *Frontiers of Justice* (Cambridge, Mass.: Harvard University Press, 2006).

Plato: *The Republic*, trans, and ed. Francis Cornford (Oxford: Clarendon Press, 1941).

Pogge, T.: *Realizing Rawls* (Ithaca, NY: Cornell University Press, 1989).

Rawls, J.: *A Theory of Justice* (Cambridge, Mass.: Harvard University Press, 1971).

—: 'Justice as fairness: political not metaphysical', *Philosophy and Public Affairs*, 14 (3) (summer 1985), 221–56.

—: 'The domain of the political and overlapping consensus', *New York University Law Review*, 64 (1989), 233–55.

—: *Political Liberalism* (New York: Columbia University Press, 1993).

—: *Law of Peoples* (Cambridge, Mass: Harvard University Press, 1999).

Rorty, R.: 'The priority of democracy to philosophy', *Philosophical Papers* (Cambridge: Cambridge University Press, 1991), pp. 175–96.

Rossiter, C.: *Conservatism in America* (Cambridge, Mass.: Harvard University Press, 1982).

Sandel, M.: *Liberalism and the Limits of Justice* (Cambridge: Cambridge University Press, 1982).
Smith, A.: *The Wealth of Nations* (1775); (Oxford: Clarendon Press, 1976).
Thucydides: *The Peloponnesian War* (Harmondsworth: Penguin Books, 1972).
Tocqueville, A. de: *Democracy in America* (1835); (New York: Random House, 1964).

Further reading

Historical

Green, T. H.: *Lectures on Political Obligation* (Cambridge: Cambridge University Press, 1986).
Montesquieu, Baron de: *The Spirit of the Laws* (Cambridge: Cambridge University Press, 1986).
Russell, B.: *Principles of Social Reconstruction* (London: Allen & Unwin, 1916).
Spencer, H.: *The Man versus the State* (Indianapolis, Ind.: Liberty Classics, 1981).

Commentary

Arblaster, A.: *The Rise and Decline of Western Liberalism* (Oxford: Blackwell, 1984).
Rosenblum, N.: *Another Liberalism* (Cambridge, Mass.: Harvard University Press, 1989).
Ruggiero, G. de: *The History of European Liberalism*, trans. R. G. Collingwood (Oxford: Clarendon Press, 1924).

Contemporary

Ackerman, B.: *Social Justice in the Liberal State* (New Haven, Conn.: Yale University Press, 1980).
Flathman, R.: *Toward a Liberalism* (Ithaca, NY: Cornell University Press, 1989).
Galston, W.: *Liberal Purposes* (Cambridge: Cambridge University Press, 1991).
Macedo, S.: *Liberal Virtues* (Oxford: Clarendon Press, 1990).
Rawls, J.: *Political Liberalism* (New York: Columbia University Press, 1975).
Raz, J.: *The Morality of Freedom* (Oxford: Clarendon Press, 1986).
Rosenblum, N., ed.: *Liberalism and the Moral Life* (New York: Cambridge University Press, 1990).
Spitz, D.: *The Real World of Liberalism* (Chicago, Ill.: Chicago University Press, 1982).
Taylor, C.: *Sources of the Self* (Cambridge, Mass.: Harvard University Press, 1990).

Chapter 15

Marxism

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The attempt to establish 'Marxism' as a coherent body of thought began, shortly before Marx's death, with the publication of Friedrich Engels' *Anti-Dühring* in 1878 and it was continued in the socialist parties of the Second International. The largest and most influential of these parties was in Germany, and it is there that the first significant Marxist orthodoxy was established. Almost from the beginning, Marxist orthodoxy was disputed by revisionists, who insisted that an approach to the study of history and social change that claimed to be scientific should also be open to revision. Eduard Bernstein's *Evolutionary Socialism* ([1899] 1961) is the best-known early example. Competing orthodoxies emerged, the most influential being communism, under the leadership (later disputed by communist parties elsewhere) of the Communist Party of the Soviet Union, and the many varieties of Trotskyism.

V. I. Lenin once described Marx's doctrine as continuing the work of 'the greatest representatives of philosophy, political economy and socialism' (Lenin [1913] 1964, p. 23), and said that judgement would not be disputed by representatives of other orthodoxies or by revisionists. The various Marxisms have invariably regarded themselves as being political and highly theoretical, and most of them have claimed to be scientific. They have also hoped to be severely practical. Where communist or Trotskyite movements have been strong, they have tried to offer appropriately tailored versions of their science to different sections of their real or potential supporters. Some of the versions on offer have been remarkably crude, but others have been relatively sophisticated. In the West, where socialist revolutions have been defeated or where would-be revolutionary parties were too weak to even contemplate the attempt, Marxist discussion has often developed independently of direct political involvement. Many commentators have suggested that this remoteness from the stimulus of effective political action, and from the constraints imposed by party leaderships, accounts for some of the distinctive features of Western Marxism (Anderson, 1976). However, even in these cases, the assumption that there is – or should be – an intimate link between theory and practical politics has meant that theoretical differences have often been interpreted as having great political importance. Conversely, political differences have frequently been understood as resulting from theoretical errors or deviations.

The existence of competing Marxist orthodoxies and of various revisionisms ensures that Marxism presents a very different image from the inside than it does to an outsider.

From within, Marxism has usually been perceived as a relatively coherent body of thought, in which certain issues could be regarded as matters of legitimate disagreement while others marked the boundaries between Marxism and its intellectual/political opponents, including Marxist renegades. From without, the image of overall coherence has been less than compelling. Instead, observers were likely to be impressed by the sheer diversity of activities that have been able to describe themselves as Marxist. In this respect, Marxism is not unlike the other great 'isms' of contemporary politics.

More appropriate, perhaps, than the image of a relatively coherent body of thought is that of a family of Marxisms in which distinctive features recur, but few are universal. In this family, as in others, members display a variety of feelings towards one another, ranging from genuine closeness, through respectful distance to outright hostility. Moreover, while family histories privilege certain lines of descent, features sometimes appear which suggest a greater affinity with other families, leaving the paternity of some members of the Marxist family open to dispute.

The most familiar recurrent features in the Marxist family are:

- a sociological theory of history and social change in which ideas of class struggle and the development of economic relations play a major explanatory role;
- the claim that Marxism offers a critical analysis of society which also defines a socialist political project – 'the philosophers have only *interpreted* the world', Marx asserted in his *Theses on Feuerbach*, 'the point however, is to *change* it' (Marx [1845] 1968, p. 30);
- an insistence that, unlike many competing socialisms, both Marxist theory and its political project are scientific.

These features are considerably more prominent in some cases than they are in others and, like phenotypical features of other kinds, they each bring together a range of disparate elements. Following a short discussion of these features in the first part of this chapter, the second part considers their appearances in influential recent branches of the Marxist family.

Familial Features

In the *Communist Manifesto* ([1848] 1968), Karl Marx and Friedrich Engels insist that 'history is the history of class struggle'. This focus on classes and the conflicts between them is by no means peculiar to Marxism. Marx claimed that he had taken the idea of class struggle from the work of bourgeois historians, and it can also be found in the work of non-Marxist sociologists. What distinguishes Marxism from other forms of class analysis is its attempt to integrate its account of class conflict into a general theory of history in which the development of economic relations plays the most important part. Classes are thus defined by reference to the positions that individuals occupy within the economy, and they are seen as structural features of society, not dependent on any subjective awareness or commitment on the part of their members

In effect, Marxism brings the idea of class as a set of individuals who share a common economic location together with the idea (required by the claim that history is the

history of class struggle) of class as an actor or social force. The combination is not an easy one. On the one hand, the mere fact of a common economic location will not necessarily bring individuals together in collective action. On the other hand, the forces that engage in social conflict are more or less organized collectivities – armies, police, trades unions, parties and religious organizations, riotous mobs – but not classes as such. It is one thing to say that social conflict is a central feature of human history and quite another to say that *classes* are the basic forces involved in that conflict.

Marxists have not been unaware of the difficulties here, and they have tended to approach them from one or both of two directions (Hindess, 1987). One treats classes and the conflicts between them as somehow underlying the various agencies and forces at work in any given society. Marxists routinely interpret the state, political parties and other organizations – and sometimes even the theoretical work of intellectuals – as *representing*, perhaps unconsciously, the interests of one or more classes. The other argues that an appropriate level of class consciousness among its members must be established before a class can pursue its interests with any hope of success. This raises the problem of the conditions that promote or inhibit the development of class consciousness. It has been addressed with varying degrees of rigour, ranging from Georg Lukács's classic *History and Class Consciousness* ([1922] 1972) to numerous Trotskyite attempts to come to terms with the absence of successful socialist revolutions in the West; and again, more recently, in 'analytical Marxism', which I discuss below.

Now consider the primacy of economic relations. In the Preface to his *A Contribution to the Critique of Political Economy* ([1859] 1968), Marx sketches a view of societies as consisting of an economic foundation, 'upon which rises' a political and legal superstructure 'to which correspond . . . forms of social thought'. While the quoted phrases suggest that the economic foundation plays a fundamental role, the precise relationship between foundation and superstructures remains unclear. Following Engels' lead, Marxism has generally insisted that the superstructures have a real autonomy, while also maintaining that the economy plays the most important part, if only 'in the last instance'.

The claim that 'forms of social thought' are in some sense determined by the economic foundation underlies one sense in which Marxism offers a critical theory of society. This is the critique of ideology, which turns on the claim, derived from Feuerbach and the Young Hegelians, that society itself generates forms of perception that are essentially illusory. An example would be Marx's argument, in the first volume of *Capital*, that the commodity forms of capitalist society lead people to treat relations between persons as if they were relations between things. In such cases, scientific analysis could be said to perform a critical function by exposing reality for what it is. Much of Marx's own work was clearly intended to be critical in this sense although he also thought that it was necessary to move beyond criticism into action. A second sense in which Marxism offers a critical theory of society relates to the idea of civil society, which we consider below.

Except for the notoriously ambiguous doctrine of 'the last instance' and the analysis of the economy itself in terms of relations of production and productive forces, there is little in this general view of societies that is peculiar to Marxism. The idea that societies consist of economic, political, legal and cultural (or ideological) components is a commonplace of Western social thought in the modern period. So, too, is the teleological

ranking of human societies, which identifies the societies of modern West as the most advanced to date. However, the closely related idea that societies and economies have a life of their own, subject to their own particular laws of motion, requires some further comment. It has been disputed from the standpoint of methodological individualism, a Marxist variant of which is considered below, but what concerns us at this point is the form in which the idea itself emerged in seventeenth- and eighteenth-century European thought.

Notice first that the modern understanding of the economy as a distinct sphere of social interaction with its own regularities and laws of motion developed out of, and in opposition to, an understanding of relations between a ruler and the wealth at his command that was conceived on the model of the management of a household or estate (Tribe, 1978). Where both understandings concerned themselves with the provision of advice to government, political economy and its successor, economics, insisted that government action should take account of the laws governing the natural development of the economy itself. With notable exceptions (such as Malthus), the general presumption was, first, that there was a natural tendency for the wealth of the community to grow and, second, that growth might be inhibited by the ignorance and superstition of the people and by the misguided actions of their rulers. As faithful children of the Enlightenment, the political economists tended to believe that the most damaging effects of ignorance and superstition among the population at large were on the way to being dispelled, at least in their own societies. This belief left misguided government intervention as the most important single obstacle to continued economic development. Government intervention might still be justified, however, if only to clear away other obstacles to economic growth, including the effects of earlier governmental interventions.

The assumption that there is a natural tendency towards economic growth, albeit one that may be blocked by countervailing pressures, provides Marxism with the underlying mechanism for its teleology of history. Most Marxist orthodoxies have followed the view set out in Marx's Preface that this natural tendency will generate changes in economic relations which in turn will lead to broader social and political revolutions. However, the Marxist analysis of politics in class terms entails a distinctive interpretation of the second assumption. Where political economy aimed to provide government with disinterested advice on how to increase the wealth of society, Marxism sees government as serving class interests. It has therefore concerned itself not so much with advising government as with the transformation of society by means of class struggle. Eventually, Marxist orthodoxies suggest, economic development will lead to communism. This is a type of society based on co-operative forms of economic organization which are more productive even than capitalism, and in which there is no place for class divisions. For this reason, Marxism maintains that communism will also be a society in which there is no state. The ideal society, then, is seen by Marxism – as it is by many liberals – as one in which economic activity has been purged of all political interference.

A second sense in which society has been thought to have a life of its own relates to the idea of civil society as a realm of social interaction independent of direct control by government and other extraneous social forces. An early version of this idea (but not the term itself, which has a rather different provenance; see Keane, 1988) appears in

John Locke's *Essay Concerning Human Understanding*. Locke argues, first, that our sense of what is morally right and morally wrong is largely the result of the pleasures and pains that follow from our interaction with laws and, second, that the most effective of these laws in the regulation of human behaviour belong to 'the Law of Opinion and Reputation'. This Law develops in and through the expressions of approval and disapproval that occur in our interactions with our fellows. It depends on no central authority, either for its enunciation or its enforcement, and only the most reclusive can hope to escape its effects. Not only does it regulate behaviour in the immediate sense but, through the repeated experiences of pleasure and pain that it occasions, it also forms the internal standards by which we regulate our own behaviour. Locke suggests that this Law has governed the greater part of human behaviour throughout history.

What matters for present purposes is not so much what Locke himself made of this idea, but rather the manner in which it was taken up in the absolutist regimes of continental Europe, and, in a rather different fashion, in the North American colonies. Together with the Lockean account of the legitimacy of government, it provided the foundations for a powerful critique of political power that was elaborated throughout the eighteenth century both in the writings of Enlightenment philosophers and in the activities of such groups as the Freemasons, the Illuminati and the Republic of Letters (Koselleck, 1998). The idea of a morality that arises out of the life of society itself appeared to provide the moral foundations for the relation of trust, which, Locke tells us, should obtain between the people and their government. It also suggests that, where this trust is not present, civil society itself may provide the foundations for a moral critique of government.

Civil society must satisfy two conditions if it is to be able to perform this role. First, it must remain relatively free from direct government control, otherwise the morality which it generates will be compromised. Second, it must consist of rational, autonomous individuals since, on the Lockean account of legitimacy, these are the only persons capable of giving or refusing to give their rational consent to government. On the one hand, then, individuals are seen as malleable creatures of social conditions, whose moral character and other attributes are formed by the civil society in which they live. On the other hand, they are regarded as autonomous agents.

Both understandings of the individual, and therefore of the civil society in which it lives, have played an important part in Western social thought, and in Marxism in particular. To the idea that much of morality and other habits of thought emerge out of the interactions that take place within civil society, Marxism has added the claim that civil society is invariably structured by the effects of class conflict. This implies that people's habits of thought will themselves be infected by the impact of class relations on civil society. In particular, then, the power of the ruling classes can affect the beliefs and desires of its victims without them being aware of it. This view of civil society also suggests that morality itself should be regarded as a matter class struggle – of their morality and ours, as Trotsky once put it (Trotsky [1938] 1974). Where John Rawls treats the morality that prevails in Western societies as providing an independent basis from which we can evaluate the actions of government and others, Marxism sees it as serving the interests of the ruling class.

Marxists, then, can hardly be expected to treat existing civil society as if it could perform the functions which the earlier tradition of critical thought had assigned to it.

Nevertheless, as we shall see in the second part of this chapter, Marxists of the Frankfurt School of critical theory, and many of their post-Marxist successors, have taken up the ideal of a civil society inhabited by rational autonomous individuals and unaffected by the impact of class power as the basis on which to erect a normative critique of modern societies. This is the second sense in which Marxism offers a critical theory of society.

Consider, finally, the idea that Marxism offers a socialism that is scientific rather than utopian. At the simplest level, what is at stake here is the claim that Marxism provides the scientific knowledge of society which is a necessary condition of rational action in the field of politics. This desire to base political action on the best available knowledge is no more, and certainly no less, problematic in the case of Marxism than it is in the case of other would-be rational modes of politics. What distinguishes Marxism here is, first, the specific content of the science which it claims to offer and, second, its understanding of what it is to be scientific. The first need not detain us further, except to note that few contemporary non-Marxist conceptions of science would countenance the unashamedly teleological view of human history presented by most forms of Marxism. Yet, if there is a problem here for Marxism, it is a problem that has affected the greater part of Western social thought throughout the modern period. As for the second, Marxists have generally tried to base their own accounts of Marxism as a science on the best available contemporary knowledge while at the same time remaining faithful to the essentials of Marxism. There are conflicting accounts of these desiderata, and of the relative weight to be accorded to each of them. Those who have placed greater weight on the first have generally also argued for revision of the second.

Three Varieties of Western Marxism

In the years between the Second World War and the late 1980s, Western academic Marxism flourished, producing substantial bodies of work in economics, history and the other social sciences. In philosophy, and in political and social theory more generally, Marxism was more influential in Western Europe than in Britain or North America: critical theory was re-established in German academic life in the 1950s; Maurice Merleau-Ponty, Jean-Paul Sartre and other French intellectuals entered into a sustained critical encounter with communism (Lichtheim, 1966), and Sartre (1991) later attempted a major reconstruction of Marxist theory; and a lively Marxist intellectual culture emerged in Italy, inspired in part by the work of Antonio Gramsci. Much of this work was made available to an English-language audience through such journals as *New Left Review* and *New German Critique.* Rather than attempt to survey this considerable volume of material, the remainder of this chapter concentrates on three varieties of Marxist social theory which were particularly influential towards the end of this period: critical theory, which has been perhaps the single most influential tradition of academic Marxism in the West; Marxist anti-humanism, most strongly represented in the work of Louis Althusser and his associates in France during the 1960s; and analytical Marxism, which tries to pursue Marxist questions using analytical tools developed primarily in Anglo-American philosophy and social science. Although Marxist political and social theory survived into the 1990s and beyond, it has been on a much less influential scale.

Critical theory

The term 'critical theory' is now usually taken to refer to a tradition of thought which originated in the work of the Institute for Social Research, established in Frankfurt in 1923 and, after a period of exile during the Nazi period, re-established there in 1950. The work of the original members of the Institute (comprehensively surveyed in Jay, 1996) is often referred to as the 'Frankfurt School'. In the areas of philosophy and political theory the names of Max Horkheimer, Theodor Adorno and Herbert Marcuse are perhaps the best known, although Otto Kirchheimer and Franz Neumann made important contributions to the analysis of the total state and of the political conditions required for the survival of pluralist politics in democratic societies. Many commentators insist that the work of Jürgen Habermas, Claus Offe and Albrecht Wellmer represents another, quite distinct branch of critical theory, which takes its inspiration mainly from Habermas's attempts to reconstruct the Frankfurt School's understanding of critical theory (Ehrenberg, 1999). Following a short discussion of what the Frankfurt School and the later generation of critical theorists share, this section concludes with an examination of Habermas's distinctive contribution.

Perhaps the single most important common feature is the aim of developing a theory of society that is *critical*: first, in something like a Kantian sense, as involving a concern with the conditions of possibility of knowledge and of reason; and second, as reflecting on the development of Reason, now conceived as the subject of history, somewhat in the manner of an Hegelian spirit. The Frankfurt School combines these perspectives with the two forms of critical theory noted earlier: the critique of ideology which seeks to unmask the distorting images that conceal and legitimate the realities of power in modern societies; and the moral critique of political power based on the ideal of a society of rational and autonomous individuals. Critical theory thus presents itself as a vehicle of human enlightenment and emancipation, enabling individuals and collectivities to determine what their true interests are and releasing them from those forms of coercion that depend on the mystifications of ideology.

Since critical theory regards itself as a study of society, it offers a positive content. Yet it also regards itself as having a moral and aesthetic aspect, inducing self-reflection and self-improvement among those who are exposed to it. At a somewhat more general level, critical theory represents itself as a form in which Reason reflects upon its own condition. Although it is critical, and in that respect partisan, it claims nonetheless to be capable of objectivity. While critical theorists acknowledge an important sense in which all knowledge is historically conditioned, they have also insisted that truth claims can be rationally adjudicated in a way that is independent of particular class or other interests. In effect, critical theory insists that social investigation should aim to provide knowledge of society that is at once truthful and critical. For this reason, it has always been particularly opposed to 'positivism', which it identifies with the view that all cognition has the 'objectifying' structure of the natural sciences. Positivism denies the cognitive content of the critical or reflective aspects of the knowledge that critical theory claims to provide. Critical theory, in turn, regards positivism as both a mistaken epistemological doctrine and a serious threat to one of the most important contemporary vehicles of human emancipation. The controversies surrounding this view of the

nature and objectives of social enquiry are well illustrated in *The Positivist Dispute in German Sociology* (Adorno et al., 1976).

Its self-consciously reflective character and its concern with the prospects for human emancipation leads critical theory to dispute the more deterministic interpretations of Marxism, for their 'positivism' as much as for their neglect of the role of non-economic factors in human social development. While insisting on the fundamental importance of Marx's work for our understanding of modern society, critical theory also regarded the rise of fascism and the development of Stalinism in the East and of large public and private bureaucracies in the West as indicating that Marxism was seriously incomplete. The latter suggested that Marx's analysis of capitalism in terms of the unfettered development of market relations should be supplemented by the characteristically Weberian concern with the development of instrumental reason. Critical theory sees this as spreading like a plague to infect all institutional areas of modern life. The resulting fragmentation of work in large-scale organizations and the impersonal character of bureaucratic rule within them and in the larger society are said to induce reification and a sense of loss of control. Domination continues to exist, according to this view, but it becomes increasingly anonymous and difficult to pin down.

If these developments present individuals with an external world that is difficult to comprehend, critical theory suggests that related developments make it less likely that they will be able to adopt a critical perspective on that world. Among the most important of these developments is the commercialization of popular culture. In their *Dialectic of Enlightenment* (Adorno and Horkheimer [1947] 2002), Max Horkheimer and Theodor Adorno argue that the great art of the modern period retains a certain autonomy from class and other social interests. While it often represents the established order in its content, it does so in a way that has critical and often subversive implications. By the middle of the twentieth century, however, this had changed and culture had become an industry. Cultural artefacts were given a standardized form, often disguised by superficial product differentiation, and they were promoted and distributed in a similar manner to other commodities. Far from demanding a critical perspective from their audiences, the products of the culture industry offered distraction and relaxation.

Laments about the quality of popular culture are common features of the modern world. What is distinctive about critical theory is the effort to integrate its lament into a broader account of socialization and social control. It argued that the development of the culture industry, and especially the mass marketing of its products, has resulted in the extensive manipulation of the leisure activities of most individuals, with consequent effects on their socialization. In sum, the culture industry and the media were accused of superimposing false needs, with the result that we act freely on the basis of thoughts and desires that come to us from without. However, what makes the impact of these external forces so significant is the fact that the individual's capacity for autonomous action has also been undermined by changes affecting the earliest stages of childhood socialization. Bringing psychoanalytic concepts into their treatment of bureaucratization and rationalization, critical theorists argued that the family was becoming less important as an independent source of personality formation. On the one hand, the helplessness of the individual in the face of modern systems of domination undermined the legitimacy of the father's authority within the family, thereby leaving the male child more vulnerable to the appeal of powerful images projected by the

culture industry, the media, or political propaganda (Adorno et al., 1993). On the other hand, many of the socializing functions once performed by the family have now been taken over by outside agencies, that is, by social workers and other welfare professionals, and by the media.

In the first part of this chapter I referred to an earlier critical tradition which regarded civil society both as regulating the behaviour and habits of thought of individuals and as providing moral foundations for an assessment of the legitimacy or otherwise of political power. The Frankfurt School of critical theory addresses a similar set of concerns and it retains the normative ideal of a society of autonomous rational individuals. It uses ideas derived from Marx, Weber and Freud to evaluate the civil societies that exist in the modern world, and it finds them all to be seriously wanting. Civil society, in its view, hardly existed in the socialist societies of the East while, in the West, it was dominated by forces which imposed false needs and desires on individuals, with the result that what they experienced as freedom was not genuine autonomy. A civil society of this kind could not provide the foundations for an independent moral critique of political power. In one of the most influential elaborations of this argument, Herbert Marcuse insists that freedom therefore demands repression 'of the heteronomous needs and satisfactions which organize life in this society' (Marcuse, 1991, p. 192).

The pessimism of this conclusion reflects a deeper pessimism about enlightenment itself. In effect, the Frankfurt theorists shared many of Weber's reservations about the consequences of rationalization, treating it as resulting both in a loss of meaning and in the subordination of the individual to the requirements of bureaucracy. Their commitment to enlightenment and to reason was therefore deeply ambivalent. In this respect, there are significant parallels between the later work of the Frankfurt School and the arguments of Michel Foucault, Jacques Derrida and other 'postmodernists'.

Much of Jürgen Habermas's work can be seen as responding to the Frankfurt School's ambivalence towards reason. His earliest major work, (Habermas [1962] 1989b) is a study of the emergence and development of a public sphere (that is, civil society) in the seventeenth and eighteenth centuries, and of its later distortion and disintegration under the influence of capitalist social relations. In many respects, this study may be regarded as elaborating on some of the central concerns of the earlier generation of critical theorists. However, Habermas has been increasingly critical of that earlier generation's treatment of rationality. His attempts to provide the critical project with more secure intellectual foundations has gone through several stages, each moving further away from the Frankfurt School's original engagement with Marxism.

In his two-volume *The Theory of Communicative Action* (Habermas, 1984; 1987a) Habermas argues that the earlier generation of critical theorists were too prone to treat questions concerning the conditions of reason and of knowledge as if they were about the situation of the individual subject. They therefore paid insufficient attention to the intersubjective conditions of rationality and to the formation of the individual in the course of interaction with others. Negative features, which they attributed to rationalization, should, Habermas maintains, be seen rather as consequences of the social conditions in which rationalization has developed. In place of the earlier critical theorists' 'philosophy of the subject', Habermas proposes an intersubjective account of rationality, making extensive use of phenomenological sociology, symbolic interactionism and analytical philosophy. His focus is less on the situation of the individual subject

than it is on the character of the lifeworld that individuals share with others. For this reason, language and its place in intersubjective relations are central to Habermas's argument. Not only does the use of language presuppose some degree of mutual understanding but also, in Habermas's view, the 'orientation to reaching understanding is the *original* mode of language use' (Habermas, 1984, p. 288). Other uses of language are predicated on that original orientation. In particular, he argues, instrumental rationality is parasitic upon a more fundamental communicative rationality.

This account of language provides the foundations for two rather different lines of argument in Habermas's work. First, he suggests that the original orientation to reaching understanding involves assumptions – about the rationality of other participants and about the process of communication between them – which are shared, if not always acknowledged, by anyone who attempts to engage in communication with others. These shared assumptions define a bedrock of agreement, independent of class or other interests, for the adjudication of aesthetic, cognitive and normative disputes. Habermas's concept of an ideal speech situation refers to a situation in which communication is in fact organized around the attempt to reach rationally motivated agreement. Where the Frankfurt theorists made use of the normative ideal of a society of autonomous individuals, Habermas posits an idealized lifeworld, oriented to the requirements of an ideal speech situation, to serve as a standpoint from which the present organization of society can be judged and found wanting.

Unfortunately – and this is Habermas's second line of argument – the character of the existing lifeworld may distort the communication that takes place within it. On the one hand, following Weber's account of the world-views characteristic of non-Western societies, he suggests that the development of rationality may be blocked by tradition. In such cases, the orientation towards understanding will be satisfied by a reliance on traditionally certified interpretations that are not themselves regarded as being open to criticism. The extensive rationalization of life in the West, he argues, has resulted in a lifeworld in which the need for achieving understanding is now more likely to be met by the attempt at rationally motivated agreement. An important part of that process of rationalization was the emergence of a 'political public sphere . . . which, as a medium for permanent criticism, alters the conditions for the legitimation of political domination' (ibid., p. 341). On the other hand, Habermas also argues that the emergent rationality of the lifeworld has been distorted by the impact of extraneous factors. Power and money in particular 'work back upon contexts of communicative action and set their own imperatives against the marginalized lifeworld' (ibid.). Their intrusion into intersubjective relations results in forms of communication that are structured not around the attempt to reach rationally motivated agreement, but rather by deference, fear and insecurity. The effect, in other words, is to undermine rationality.

I noted above that Habermas makes this case in relation to the public sphere in his first major work (Habermas, 1989b). The argument is that, far from being a realm of free and open discussion, the public sphere has been distorted as a result of its development within capitalist society. His major work of the 1980s retained the critical concerns of this earlier argument while moving away from the Marxist terms in which it is elaborated. Instead, it makes use of the systems approaches of Talcott Parsons and Niklas Luhman to develop an analysis of rationality that involves both a systems and a lifeworld perspective. Rationalization, in his view, has overcome the most debilitating

effects of tradition within the lifeworld, but it has also provided conditions in which power and money could develop as societal media. They should be seen as generalized social mechanisms performing functions for the system, and not simply as serving the interests of those who possess them (compare the treatment of power in Parsons, 1963). The distortions of the lifeworld induced by these media are not, in Habermas's view, effects of the media as such. Rather, they should be seen as consequences of a pathological 'uncoupling of system and lifeworld' in which 'the mediatization of the lifeworld turns into its colonization' (Habermas, 1987a, p. 318). In particular, the negative features which Weber and the Frankfurt theorists attributed to rationalization itself should really be regarded as consequences of the unfortunate conditions in which rationalization has developed.

Habermas's reworking of the foundations of critical theory appears, then, to immunize it from the worst effects of the Weberian ambivalence about rationality. Far from sharing the doubts of the earlier generation of critical theorists, Habermas remains an unequivocal champion of enlightenment. It is in this role that he presents himself as a persistent critic of conservatism on the one hand and of 'postmodernism' on the other (Habermas, 1987b). How far Habermas's reconstruction of critical theory succeeds, even in its own terms, has been a matter of considerable debate (Honneth and Joas, 1991). In spite of his disagreements with the Frankfurt theorists, Habermas shares much of their critical orientation and especially its foundations in the utopian vision of an idealized civil society (Geuss, 1981; Lyotard, 1984, pp. 71–84).

Habermas remained productive long after the 1980s, as did other members of the later generation of critical theorists. However, the links with Marxism, which were once at the heart of critical theory, had become increasingly attenuated or were discarded altogether. Important and influential work was produced in this period but it should not be discussed under the heading of Marxism.

Marxist anti-humanism

In his Preface to the first German edition of *Capital,* Marx tells us that:

> here individuals are dealt with only in so far as they are the personification of economic categories, embodiments of particular class relations and class interests. My standpoint . . . can less than any other make the individual responsible for relations whose creature he socially remains, however much he may subjectively raise himself above them. (Marx, 1992, pp. 20–1)

The idea that individuals should be seen as embodiments of the economic and other relations in which they are embedded was developed into an anti-humanist Marxism by Louis Althusser and his associates in France during the 1960s (Althusser and Balibar, 1998; Althusser, 2006). Althusserian Marxism reached its peak in the late 1960s in France and somewhat later elsewhere. It remains influential in the work of Slavoj Žižek, some of Althusser's collaborators, and in that of writers associated with the journal *Rethinking Marxism* (e.g. Gibson-Graham et al., 2001).

Althusser's critique of 'humanism', 'a problematic of human nature (or the essence of man)' (Althusser, 2006, p. 227), derives from Heidegger's 'Letter on Humanism'

(1978) as much as it does from the earlier Marxist tradition. While its strictures were most obviously directed against the humanistic Marxism of Sartre and others in France, they could equally well have targeted the tradition of critical theory considered above. Its theoretical anti-humanism accounts for much of the hostility with which the Althusserian project has been greeted (for example, in Thompson, 1996). However, where Heidegger views humanism as an inescapable feature of Western thought, Althusser presents us with a Marxism that has finally escaped its humanist shackles and developed into a fully fledged science. 'It is impossible', he insists, 'to *know* anything about men except on the condition that the philosophical (theoretical) myth of man is reduced to ashes' (Althusser, 2006, p. 229). The clearest manifestations of Althusser's anti-humanism occur, first, in his critique of 'the empiricist conception of knowledge' and his account of science and ideology as distinct forms of knowledge, and, second, in his reworking of Marxism's traditional three-level model of society.

Althusser uses the phrase 'the empiricist conception of knowledge' to refer to the understanding of knowledge as involving a relation between a knowing subject (an empirical or transcendental human individual, a scientific community, or whatever) and an object of knowledge. The circularity of this conception of knowledge has often been noted – for example, in the Introduction to Hegel's *Phenomenology*. What is unusual about Althusser's discussion is that he makes no attempt to save empiricism by recasting it in a different form. Instead, he proposes an alternative conception in which knowledge is regarded as the outcome of a practice, that is, of a labour of transformation 'which sets to work, in a specific structure, men, means, and a technical method of utilizing the means' (ibid., pp. 166–7). On this view the central issues for the theory of knowledge concern this 'specific structure', and certainly not the men who work within it or the epistemological foundations on which knowledge is often supposed to rest. By analogy with Marx's analysis of capitalist production, Althusser describes science as a distinctive mode of production of knowledge in which the process of production itself is not governed by the intentions of individual scientists, but rather by the problematic (the system of concepts and relations between concepts) with which they work. The problematic determines the questions to be posed, the difficulties that are seen or not seen, and the kinds of evidence to be gathered, much as an assembly line determines the tasks to be performed by the individuals who work on it. Following Bachelard (2002), Althusser maintains that, insofar as there are protocols for scientific practice, they cannot be derived from any extra-scientific (or philosophical) epistemology. There is no such thing as *the* scientific method, only scientific methods, each of which is determined by the problematic of the science in question.

Ideological knowledge, in contrast, is not governed by problematics in the same way as the sciences. Althusser defines ideology in terms of the 'lived' relation between individuals and the social conditions of their existence, a relation that exists in the realm of the Lacanian imaginary. In a sense, then, ideology does conform to empiricism as Althusser describes it, but the knowledge it produces is not a knowledge of the real. Theoretical ideologies, such as Aristotelian physics, pre-Darwinian biology and the non-Marxist social sciences, are reflected and elaborated forms of these lived relationships. Like the sciences, they are governed by a problematic, by a specific system of concepts and relations between concepts, but it is a problematic governed by the forms of consciousness of human subjects, and therefore by the ideology which determines them.

In Althusser's view, then, theoretical ideology differs from science in two fundamental respects: it is always a kind of empiricism, whereas Marxism and the other sciences each have their own distinct problematics; it is subject to the play of class interests, whereas each scientific problematic has its own autonomous dynamic. Both demarcations are difficult to sustain. Consider first the claim that, unlike the sciences, theoretical ideology is incurably empiricist. It operates with extra-theoretical elements given to theoretical discourse by ideology, not by the real as such. It is in these terms that Althusser (Althusser and Balibar, 1998, Part II, ch. 7), investigates the discourse of political economy and finds it wanting. For all its theoretical sophistication, the evidence of ideology can be seen throughout its foundations.

So much the worse, it seems, for political economy. The difficulty for Althusser's analysis is that Marx's *Capital* too appears to exhibit many of the empiricist symptoms of ideology. The reason for this unfortunate state of affairs, Althusser tells us, is that a science is always created as the outcome of an epistemological break, a revolutionary reconstruction of the mode of production of knowledge in which one kind of problematic is replaced by another. Althusser maintains that such an epistemological break can be identified in Marx's own work, separating the humanist writings of his youth from the scientific texts of his maturity. This account of the emergence of the sciences suggests that they are not born in all their purity, and also that they remain forever threatened by ideological encroachments. Marx, for example, had little choice but to construct his arguments making use of elements taken over from the theoretical ideology in opposition to which he was laboriously attempting to construct his new science. *Capital*, then, should be read as a scientific text that is heavily contaminated by ideological remains. It has to be purged of these remains through what Althusser describes as a 'symptomatic reading'. Althusser takes this argument to its conclusion in *Lenin and Philosophy* (Althusser, 2001), which insists that the principal task of philosophy is precisely to defend the sciences against ideological encroachment. Thus the task of Marxist philosophy is to defend the scientific character of Marxism. It is a form of class struggle in the realm of theory.

It seems, then, that we should read political economy for signs of its ideological character but read *Capital* and other texts of Marxist theory for signs of the science that we know is buried within them. The differential readings establish that one discourse is ideological and the other scientific, and this demarcation in turn tells us how the discourses are to be read. The evident circularity of this procedure shows that the demarcation cannot be sustained, at least in the form that Althusser presents it.

The second difficulty concerns Althusser's claim that, unlike theoretical ideology, each science has an *autonomous* dynamic governed by its own distinctive problematic. Notice first, that the analogy between science and capitalist production is a curious one. While it is true that workers on an assembly line are assigned tasks by their position in the process itself, it is surely misleading to suggest that they function merely as the bearers of that process. The more serious point, though, is that the capitalist production process is subject to the commanding will of an individual labourer or of a capitalist or manager who directs the labour of others. There is no place for such a commanding intelligence in Althusser's anti-humanist conception of science. Instead, we have to imagine that, in their scientific endeavours, scientists are creatures of their problematic, while, in other contexts, these same individuals are creatures of the social formation in

which they live. Althusser's argument that the sciences need to be defended against ideological encroachment suggests that this distinction is never entirely secure. It also brings us to the problem of structural determination, to which we now turn.

In the first part of this chapter I suggested that Marxists have always had difficulty combining the idea that the economy plays a determining role, if only in the last instance, with the claim that law, politics and ideology are autonomous, but only relatively so. Althusser elaborates his own attempt to bring them together through the concept of structural causality, which he develops in opposition to the 'expressive' or Hegelian causality which he sees at work in Lukács's *History and Class Consciousness* and in most Marxist orthodoxies. The latter allows law, politics and ideology to be read as expressions of an essence located elsewhere, either in the functional requirements of the relations of production or in the competing class interests established by those relations.

'Structural causality', in contrast, refers to a relationship between a structure and its parts in which the parts provide the conditions of existence of the structure while the structure provides the conditions of existence of the parts. It suggests a model of the social whole which, in Althusser's view, differs from the Hegelian model in two respects. First, rather than being represented in other levels of social organization, the economy plays a double role, establishing what relationships hold between the levels of the structure while also appearing as a level in the pattern of relationships it establishes. It is determining in the one respect, but it may also be affected by the political-legal or the ideological levels in the other. In practice, this account is not much more than a sophisticated version of the traditional Marxist attempt to have and to eat the cake of economic determinism. The second difference from the Hegelian model is that the Althusserian structure does not contain the principle of its own destruction. On the contrary, the continued existence of the structure is logically entailed by its existence. Althusser calls the structure an 'eternity in Spinoza's sense' (Althusser and Balibar, 1998, p. 107). This position is difficult to reconcile with traditional Marxist accounts of class struggle, or indeed with its claim, which Althusser supports in other contexts, to provide a theory of historical development (Hindess and Hirst, 1975).

However, the main interest of Althusser's attempt to rework the traditional three-level model of society lies in its overt anti-humanism. If, as the notion of structural causality suggests, the conditions of existence of the structure are secured by the actions of the structure itself then the behaviour of human individuals must also be determined by the structure to which they belong. Individuals, in other words, are merely bearers of functions that arise from their structural location. If Althusser had never existed, methodological individualism would have had to invent him.

Althusser's most influential discussion of the implications of structural causality for our understanding of the human individual can be found in 'Ideology and Ideological State Apparatuses' (in Althusser, 2001), where he poses the problem of how the reproduction of capitalist relations of production is secured. His answer is, first, that individuals are distributed to places in the social division of labour and, second, that they are endowed with an ideological formation appropriate to the position they are destined to occupy. Althusser suggests that the educational system plays a central role in both respects. In modern capitalist societies the differentiation of the labour force is achieved through the development of specialized capacities in individuals. These capacities

include both technical skills and an appreciation of 'the "rules" of good behaviour, i.e. the attitude that should be observed by every agent in the division of labour, according to the job he is "destined" for' (2001, p. 127).

Althusser's argument here displays a surprising faith in the efficacy of the educational system, but the more interesting issue that it raises concerns his understanding of ideology as involving a distinct level of the social formation. This level is the site of ideological practice, which works on the consciousnesses of human individuals through representations of their imaginary relationships to their social conditions of existence. Their consciousnesses are fabricated in ideology, and all acts of consciousness are necessarily ideological. Ideology constitutes individuals as subjects who experience themselves as free: 'the individual is interpellated as a (free) subject in order that he shall submit freely to the commandments of the Subject . . . i.e. in order that he shall make the gestures and actions of his subjection "all by himself" ' (ibid., p. 169). Here Althusser aims to show that social relations are reproduced in and through the formation of individuals with consciousness appropriate to the tasks they are required to perform. Yet he undermines its force by insisting (in an epilogue) on the importance of class struggle and, especially in relation to education, on those teachers who fight against their duly allotted role.

Perhaps the most striking feature of this argument is that it turns all behaviour into an effect of the structure. In that respect it reproduces precisely the expressive causality that Althusser is so concerned to castigate in the work of other Marxists. The more serious point is that the mechanisms Althusser invokes to account for the reproduction of relations of production can at most account only for the formation of individuals as subjects of a certain type, endowed with attributes, desires and habits of thought appropriate to their stations in life. Yet this is by no means sufficient to determine their behaviour, since what they do will also depend on the circumstances in which they find themselves. Since Althusser's account of the formation of individuals' consciousnesses does not account for those circumstances, it fails to show how capitalist relations of production are reproduced.

Notice, finally, that Althusser treats his subjects as endowed with a faculty of experience which allows them to interiorize the forms of subjectivity they are destined to occupy in the structure. Far from accounting for the formation of human individuals as subjects, Althusser's treatment of the mechanisms of ideology must suppose that they are already constituted as subjects. In this respect, Althusser's structural determinism rests on an implicit view of human nature. Rather than a systematic anti-humanism, Althusser in fact provides us with an inverted image of the humanism he tries so hard to avoid. People are born free in the imaginary, but in reality they are in chains. This point brings us to analytical Marxism.

Analytical Marxism

Analytical Marxism offers a striking counterpoint to the anti-humanism of the Althusserian project. Where the latter views individuals as the bearers of functions that arise from their structural location, the former proposes to analyse social life in terms of an uncompromising methodological individualism. In his Introduction to *Analytical Marxism*, John Roemer suggests that 'its practitioners are largely inspired by Marxian

questions, which they pursue with contemporary tools of logic, mathematics, and model-building . . . These writers are, self-consciously, products of both the Marxian and non-Marxian traditions' (Roemer, 1986, p. 1).

In fact, Marxists have always claimed to make use of the best available contemporary knowledge, but there have been conflicting accounts of where that knowledge is to be found. What is distinctive, then, about analytical Marxism is less its use of non-Marxist ideas than the particular non-Marxist ideas that it finds valuable. Analytical Marxism, as its name suggests, is a Marxism in the tradition of analytical philosophy and, like much of that tradition, it has little time for its continental counterparts. It flourished during the 1980s. Most of its major figures remain productive but, like the later generation of critical theorists, they have largely abandoned their earlier links with Marxism.

Analytical Marxism is more a style of work than it is a body of doctrine. There are fundamental disagreements amongst its practitioners, many of which are represented in Roemer's 1986 collection. G. A. Cohen, for example, argues that historical materialism involves a defensible type of functional explanation and that the natural development of productive forces is the motor of historical development. Jon Elster denounces the first of these positions, arguing that functional explanation invariably presupposes a causal mechanism, and that no such mechanism is available in the social case. Robert Brenner disputes the second, insisting that the development of the productive forces depends on prior transformations in property relations. If there is a motor of historical change, he argues, it is class struggle, not the development of the productive forces. Such differences notwithstanding, the practitioners of analytical Marxism share a commitment to methodological individualism. They insist that, at least in principle, the explanation of historical change must be based on the rational behaviour of individuals.

In the areas of philosophy and political theory perhaps the most interesting product of analytical Marxism has been the wholesale reconstruction of Marx's social theory attempted, in rather different ways, by Jon Elster and Adam Przeworski. In *Making Sense of Marx*, Elster maintains that the causal explanation of aggregate phenomena in terms of the individual actions that go into them 'is the specifically Marxist contribution to the methodology of the social sciences' (Elster, 1985, p. 4). He also insists that whatever is worth retaining in Marx's work can be understood in these terms. The remainder should be discarded: Marx's theory of value and much of his economic analysis, his functional and teleological arguments, and especially his methodological collectivism. Marx's methodological collectivism, exemplified in the passage quoted earlier from the Preface to the first German edition of *Capital*, assumes that 'there are supra-individual entities that are prior to the individual in the explanatory order' (ibid., p. 6). It therefore leaves little scope for the intentional analysis of human action. Where Althusser treats the humanist elements in Marx's mature works as ideological residues that should be excised, Elster sees them as containing the core of Marx's contribution.

This last point in particular marks a radical departure from received accounts of Marxism and it is not immediately clear how it can be reconciled with the structural analyses of capitalist economic life that appear to play such an important part in Marx's mature work. In order to show that much of this structural analysis is not inconsistent with methodological individualism, Elster refers us to the unintended consequences of

human action, and especially to those which arise 'when agents entertain beliefs about each other that exemplify the fallacy of composition' (ibid., p. 48). Marx's central contribution, in Elster's view, lies in his attempts to analyse social life in precisely these terms. Consider, for example, the relations between wages and profits. If one capitalist enterprise induces its workers to accept lower wages while other enterprises continue as before, its profits will increase. However, if all enterprises were to act on the assumption that they could improve profits by reducing wages, then the general level of wages and the general level of profits would both fall. In this example, what seems to be rational action for each individual enterprise turns out to be irrational in the aggregate. Elster argues, in effect, that 'structural' tendencies in the economy can be explained as the unintended consequences of numerous individually rational decisions. Indeed, 'this mechanism generates social change not only in capitalism, but in any society in which economic decisions suffer from lack of coordination' (ibid., p. 26).

In fact, plans commonly go awry, and they do so no matter what beliefs actors entertain about each other. The aggregate consequences of numerous individually rational actions are hardly explained by the fact that they were not themselves intended. What accounts for the 'structural' tendency in Elster's example is the assumption that capitalist enterprises act to reduce wages because of their rationality and their perception of the situation in which they find themselves. Elster treats the latter as resulting from the fact that they are capitalists. In other words, the weight of explanation is carried by the 'structural' assumption that significant features of actors' perceptions were determined by their social location as members of a particular class.

Where Elster insists that Marx's methodological collectivism should be abandoned, Przeworski challenges the standard socialist assumption that the workers' pursuit of their material interests will lead to socialism. Even if socialism were more successful than capitalism at satisfying workers' material interests, he argues, this need not mean that it would be rational for workers in a capitalist society to opt for socialism. First, the period of transition to a socialist society could well involve a decline in living conditions. Second, it may well be possible for the working class to establish a *modus vivendi* with the ruling class in which a relatively low level of industrial militancy was exchanged for high and reliable levels of capitalist investment. Under such conditions workers would be irrational to pursue the goal of a socialist society.

I noted in the first part of this chapter that there was a tension in Marxist thought between the understanding of class as a set of individuals who share a common economic location and the understanding of class as an active social force. This tension is exacerbated in Przeworski's argument by his uncompromising methodological individualism. He insists that classes should not be regarded as objective structures given by the character of property relations. Rather, they are formed 'as effects of struggles; as classes struggle they transform the conditions under which classes are formed' (Przeworski, 1985, p. 92).

The suggestion that agencies of collective action are formed in part by collective action is uncontentious. It is not so clear why we should treat agencies formed in that way as *classes.* In effect, and in spite of his insistence on the formation of classes in struggle, Przeworski continues to treat class interests as if they were determined by the structure of property relations. Individuals who are forced to sell their labour power in return for wages share 'interests defined in terms of a number of secondary

characteristics, particularly of a distributional nature [which] leads to the notion of the working people' (ibid., p. 91). It is in this sense that Przeworski and Sprague write of workers 'as the only potential proponent of the class organization of politics – when no political forces seek to mobilize workers as a class, separately from and in opposition to all other classes, class is absent altogether as a principle of political organization' (Przeworski and Sprague, 1986, p. 11).

In other words, Przeworski takes class interests to be structural features of society and he treats collective action in pursuit of those interests as a contingent product of political struggle. Once interests are identified in this way, then the choices of *rational* individuals are determined by these interests and by the conditions of action they confront. Przeworski's reconstruction of Marxist theory in terms of methodological individualism depends, like that of Elster, on a surreptitious structural determinism.

At the beginning of this section I suggested that analytical Marxism offers an interesting counterpoint to Althusser's anti-humanism. On the one side is a model of the individual as a rational agent, pursuing its interests to the best of its ability under conditions that are themselves the outcome of numerous individual actions. On the other is the model of the individual as the bearer of functions given by the structure of social relations in which it is embedded. Yet, for all their apparent opposition, these views of the individual have a great deal in common. Both treat individuals as creatures of their social location: in the one case because they pursue the most rational course of action given the situation in which they find themselves, and in the other because they have internalized the appropriate norms and act on them. The mechanisms by which individuals are subordinated to their situations may differ but the overall result is much the same.

References

Adorno, T. and Horkheimer, M.: *Dialectic of Enlightenment* (1947) (Stanford, Calif.: Stanford University Press, 2002).

Adorno, T., Levinson, D. J. and Nevitt, R.: *The Authoritarian Personality* (1950) (New York: Norton, 1993).

Adorno, T., Albert, H., Dahrendorf, R., Habermas, J., Pilot, H. and Popper, K. R.: *The Positivist Dispute in German Sociology* (London: Heinemann, 1976).

Althusser, L.: *Essays in Self-Criticism* (London: New Left Books, 1976).

—: *Lenin and Philosophy* (London: Verso, 2001).

—: *For Marx* (London: Verso, 2006).

Althusser, L. and Balibar, E.: *Reading Capital* (London: Verso, 1998).

Anderson, P.: *Considerations on Western Marxism* (London: New Left Books, 1976).

Bachelard, G: *The Formation of the Scientific Mind* (1938) (Manchester: Clinamen, 2002).

Bernstein, E.: *Evolutionary Socialism* (1899) (New York: Schocken, 1961).

Cohen, G. A.: *Marx's Theory of History: A Defence* (Oxford: Oxford University Press, 1978).

Ehrenberg, J.: *Civil Society: The Critical History of an Idea* (New York: New York University Press, 1999).

Elster, J.: *Making Sense of Marx* (Cambridge: Cambridge University Press, 1985).

Geuss, R.: *The Idea of a Critical Theory* (Cambridge: Cambridge University Press,1981).

Gibson-Graham, J. K., Resnick, S. and Wolff, R.: *Re/Presenting Class: Essays in Postmodern Marxism* (Durham, NC: Duke University Press, 2001).
Habermas, J.: *The Theory of Communicative Action.* Vol. 1: *Reason and the Rationalization of Society* (Boston, Mass.: Beacon Press, 1984).
—: *The Theory of Communicative Action.* Vol. 2: *The Critique of Functionalist Reason* (Boston, Mass.: Beacon Press, 1987a).
—: *The Philosophical Discourse of Modernity. Studies in Contemporary German Social Thought* (Cambridge, Mass.: MIT Press, 1987b).
—: *The New Conservatism* (Cambridge, Mass.: MIT Press. 1989a).
—: *The Structural Transformation of the Public Sphere* (1962; Oxford: Polity, 1989b).
Heidegger, M.: 'Letter on humanism', in *Martin Heidegger: Basic Writings*, ed. D. F. Krell (London: Routledge & Kegan Paul, 1978).
Hindess, B.: *Politics and Class Analysis* (Oxford: Blackwell, 1987).
Hindess, B. and Hirst, P. Q.: *Pre-Capitalist Modes of Production* (London: Routledge, 1975).
Honneth, A. and Joas, H.: *Communicative Action: Essays on Jürgen Habermas' The Theory of Communicative Action* (Oxford: Polity Press, 1991).
Jay, M.: *The Dialectical Imagination* (Berkeley and Los Angeles, Calif.: University of California Press, 1996).
Keane, J.: *Democracy and Civil Society* (London: Verso, 1988).
Koselleck, R.: *Critique and Crisis: Enlightenment and the Pathogenesis of Modern Society* (Cambridge: MIT Press, 1998).
Lenin, V. I.: 'The three sources and three component parts of Marxism' (1913); *Collected Works*, vol. 19 (London: Lawrence & Wishart, 1964), pp. 23–8.
Lichtheim, G.: *Marxism in Modern France* (New York: Columbia University Press, 1966).
Locke, J.: *An Essay Concerning Human Understanding*, ed. P. Nidditch (Oxford: Clarendon Press, 1957).
Lukács, G.: *History and Class Consciousness: Studies in Marxist Dialectics* (1922; Cambridge, Mass.: MIT Press, 1972).
Lyotard, J.-F.: *The Postmodern Condition: A Report on Knowledge* (Minneapolis: University of Minnesota Press, 1984).
Macey, D.: *The Penguin Dictionary of Critical Theory* (London: Penguin, 2002).
Marcuse, H.: *One Dimensional Man* (London: Abacus, 1991).
Marx, K.: *Capital* (1867); (London: Penguin, 1992).
—: 'Theses on Feuerbach' (1845); Marx and Engels, *Selected Works* (one-volume edition) (London: Lawrence & Wishart, 1968), pp. 28–30.
—: Preface to *A Contribution* to *the Critique of Political Economy* (1859); Marx and Engels, *Selected Works* (one-volume edition) (London: Lawrence & Wishart, 1968), pp. 181–5.
Marx, K. and Engels, F.: *The Communist Manifesto* (1848); Marx and Engels, *Selected Works* (one-volume edition) (London: Lawrence & Wishart, 1968), pp. 31–61.
Parsons, T.: 'On the concept of political power', *Proceedings of the American Philosophical Society*, 107 (1963), 232–62.
Przeworski, A.: *Capitalism and Social Democracy* (Cambridge: Cambridge University Press, 1985).
Przeworski, A. and Sprague, J.: *Paper Stones* (Chicago, Ill.: Chicago University Press, 1986).
Roemer, J., ed.: *Analytical Marxism* (Cambridge: Cambridge University Press, 1986).
Sartre, J.-P.: *Critique of Dialectical Reason* (1960); (London: Verso, 1991).
Thompson, E. P.: *The Poverty of Theory* (London: Merlin, 1996).
Tribe, K.: *Land, Labour and Economic Discourse* (London: Routledge, 1978).
Trotsky, L.: *Their Morals and Ours* (1938); (New York: Pathfinder, 1974).

Further reading

Balibar, E.: *The Philosophy of Marx* (London: Verso, 1996).
Benton, E.: *The Rise and Fall of Structural Marxism* (London: Macmillan, 1984).
Bottomore, T., ed.: *A Dictionary of Marxist Thought* (Oxford: Blackwell, 1991).
Braaten, J.: *Habermas' Critical Theory of Society* (New York: SUNY Press, 1991).
Carver, T., ed.: *The Cambridge Companion to Mar*x (Cambridge: Cambridge University Press, 1991).
Cutler, A. J., Hindess, B., Hirst, P. Q. and Hussain, A.: *Marx's Capital and Capitalism Today* (London: Routledge & Kegan Paul, 1977, 1978).
Elliott, G.: *Althusser: a Critical Reader* (Oxford: Blackwell, 1994).
Kolowkowski, L.: *Main Currents of Marxism*, 3 vols (New York: Norton, 2005).
Lukes, S.: *Marxism and Morality* (Oxford: Oxford University Press, 1987).
Macey, D.: *The Penguin Dictionary of Critical Theory* (London: Penguin., 2002).
Mayer, T. F.: *Analytical Marxism* (New York: Sage, 1994).
Wheen, F.: *Karl Marx: A Life* (New York: Norton, 2002).

Chapter 16

Fundamentalisms

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Religion has surprised the secular elites of North American and European societies. Not only has religion survived the treacherous passage from village to metropolis, from medieval superstition to modern science, and from state support (and coercion) to voluntary membership. Apparently, it has thrived and gained new sources of strength amidst these transformations. Far from being relegated to the proverbial ash-heap of history, modern religions and the activist movements they generate find themselves positioned at the centre of modern debates – and modern wars – over territory, political sovereignty, human rights, global and local economy, scientific research and popular culture. Among these activist movements, the most virulent and sustained are 'fundamentalisms' – increasingly sophisticated reactions against secular modernity that seek to fight back against the enemies of traditional religion by constructing religiously inspired and quintessentially modern alternatives to 'godless', idolatrous governments, institutions and political and cultural elites.

The Collapse of the Secularization Theory

In the 1960s and 1970s scholars of religion refined and published a set of ideas about the role of religion and religions in the late modern world that came to be known as 'the secularization theory'. The theory was widely accepted and endorsed by influential sectors of the media, business, the academy and government, including the intelligence community. In many quarters, surprisingly, the now-discredited theory persists, and its persistence continues to create distortions in the public perception of religion and in the governmental and media approach to religion in the countries of the industrialized West.

The secularization theory, according to the sociologist of religion José Casanova (1994), rested on three pillars. World events in the final quarter of the twentieth century tended to confirm one of the premisses of the theory, namely, that religion would increasingly become differentiated from the state. Although 'church–state separation' has been written into law or otherwise institutionalized in Europe, the United States, Latin America, Turkey, India, parts of Africa, and elsewhere, a number of nation-states and kingdoms continue to support and privilege an official state religion.

Yet even in such states or kingdoms where one religion is 'established', the so-called state religion (for example, Orthodox Christianity in Serbia and Russia, Orthodox Judaism in Israel, Sunni Islam in Egypt, Saudi Arabia and Pakistan, and Shi'ite Islam in Iran) has experienced internal divisions and conflict; resistance from other religions competing for souls; challenges from the United Nations and other global, universalist, human rights organizations; and a generalized weakening of exclusive state support. In short, scholars who developed the secularization theory – social scientists such as Peter Berger (2004) and David Martin (2005) – seem to have been correct in predicting that religion would gradually cease to enjoy the protection of the state and thus become 'differentiated' from it.

Yet Berger, Martin and their colleagues would agree that the two remaining pillars of the secularization theory have been demolished by recent events. They had predicted that the withdrawal of state support from religion would lead to its privatization, that is, to the withering of a public presence for religion and its retreat into the sphere of the individual resting in his or her own solitude. Clearly, this has not been the case. The 'resurgence of public religion' – in particular, the rise of 'fundamentalisms' and related politically aggressive and indisputably 'public' religious movements and organizations – has coincided with the nation-state's relative indifference to religion. (Some fundamentalists would bitterly describe the modern state as 'hostile to' religion, or as 'a betrayer of' religion.)

Finally, the secularization theory held that religion, having lost the support of the state and endured privatization, would ultimately decline and perhaps even vanish from the face of the earth, or at least from the modern and modernizing nations. The death blow for religion, some scholars assumed, would come from the convergence of several developments, including: the rise of materialism among the popular masses (the idea that the material or physical world is the real and only world, and that people find happiness by accruing the basic necessities and creature comforts of this world), accelerated by the globalization of free markets and spread of a consumerist mentality; the expansion of science and technology into the realms of belief, imagination and meaning-making, which were once captivated solely by religion; and the aforementioned differentiation of religion and its privatization, which were seen as a stage in its overall decline. The secularization theorists believed, in short, that the secular or 'this-worldly' attitude would come to dominate human affairs in the twenty-first century.

Peter Berger, among others, changed his mind. Modernity and modernization does not necessarily lead to secularization, he claims, for today we see many new and different combinations of religious and secular modes of being and ways of thinking. But modernity does lead to religious plurality, he contends, and therein lies a critical insight to understanding the relationship between religions, states and other sectors of society.

Challenges to Traditional Religion

Contending with plurality, or the presence of many religions competing for space and resources in one society, is one of the adjustments religions have had to make as modernity has increasingly come to shape societies in the last three centuries, and especially

during the decades following the First World War, the resolution of which saw the end of the last great Islamic empire (the Ottoman Empire) and the consolidation of Western hegemony over much of the postcolonial world. The twentieth century witnessed the creation of dozens of new nation-states in the aftermath of the world wars and the success of anti-colonial national independence movements (such as those in India, Pakistan, Sri Lanka, Brazil, Poland, Hungary and other nations of post-Soviet Eastern Europe), the reconfiguration of borders, the massive migrations of peoples across these borders, and the realignment of ethnic, religious and political alliances. Intermarriage across religious boundaries became increasingly common, as did the rise of multicultural, multi-religious world cities such as London, New York, Hong Kong and Paris. Modern media conveyed the possibility of religious and cultural options to the remotest corners of the world, and increasingly global businesses commodified and marketed these religious and cultural identities. Post-Soviet Russia, mainland China, Latin America and sub-Saharan Africa were inundated with new religious 'sects' contesting for souls and public space, often in the teeth of vehement and sometimes violent opposition from the state and indigenous religious communities (Witte and Van Der Vyver, 1996).

The transgression of religious boundaries and the penetration of religious enclaves evoked various reactions from the faithful. Some believers accommodated religious plurality by joining secular liberals in accepting it as a feature of modern societies and endorsing it under the name of 'pluralism'. This response implied an accompanying acceptance of the concept of religious freedom – the right of each individual to choose his or her own religion without coercion or penalty by the state or society. For other members of religious communities – including those who would come to be called 'fundamentalists' – both 'pluralism' and 'religious freedom' smacked of indifferentism and relativism, two disturbing modern trends that threatened to erode traditional religious belief and practice.

Indifferentism, put simply, holds that one's religious identity or membership in a religious community should carry no relevance for one's citizenship or political/public behaviour. Understood in this sense, pluralism drains religion of its significance for the public order and is therefore another route to and expression of privatization. Relativism, according to fundamentalists and other traditional believers, is an even deadlier consequence of the principled acceptance of religious plurality, for it holds that religious beliefs are relative one to another; that no one belief or system of beliefs can be said to be absolutely true for all people at all times. For fundamentalists in all religious traditions that are anchored in the conviction that absolute Truth exists and can be known, however imperfectly, relativism is a direct attack against the heart of religious faith. It leads, they claim, not only to atheism or agnosticism, but also to irresponsible experimentation in matters religious and spiritual. The results include reckless innovation, the plundering of selected beliefs and practices from once-coherent religious traditions, and the mixing and matching of these elements in a spirit-deadening farrago of new religions and new religious movements, oblivious to history and traditional wisdom.

Another modernist challenge to organized religion, and one that is allegedly accelerated by pluralism, is the compartmentalization of religion, a consequence of its legal or *de facto* separation from the state. Rather than hold sway over politics, economy, belief, sexual behaviour and tradition, religion now occupies only a part or sector of society

– the practice of Christianity in the West, it has been said, now occurs only on Sundays. More distressing to many religious thinkers is the compartmentalization *of the mind* of the individual, who now may think of herself as containing multitudes, including, for example, all of the following: an independent woman, a mother, a lawyer, a college-educated humanist, a Democrat or Republican, and a Christian who happens to be a Roman Catholic (or a Methodist, or a Presbyterian). 'Where is the centre, or the soul, of such a fragmented individual?' ask the critics of modernism. 'The divided mind' is a particular threat to those who see religion as an encompassing and all-absorbing way of life that should dictate an individual's sense of self and behaviour in the community. What has happened to mainstream Christianity in the modernized and modernist West, they fear, is also threatening Judaism, Islam and the historic religious traditions of Asia as well.

The Fundamentalist Response

'Fundamentalisms' are the organized responses, mounted from within historic religious traditions, to the irreligious tendencies of the modern, secularized world – 'tendencies' that fundamentalists tend to perceive as deliberate choices and calculated strategies, results not of random historical occurrences but of a long-standing, cumulative and global conspiracy against religion by its secular opponents. Significantly, the most dangerous victims of the spreading religious indifference and relativism are the fundamentalists' 'weak-willed' or 'morally somnolent' co-religionists, putative fellow believers who have made fatal compromises with the enemy. Perhaps the 'lost' co-religionist couple decided to send their children to the more affordable public (and religiously plural) school, rather than to the religious school. Perhaps they fell into the habit of wearing secular dress and watching the secular media. Perhaps they failed to vote for the candidate of the religious party. Whatever the initial concessions to the ambient godless culture, these fellow believers, fundamentalists suspect, are morally adrift, suffering from the sweet but spiritually lethal disease of 'Westoxication', as an Iranian Shi'ite intellectual dubbed the process (Marty and Appleby, 1991).

Claiming to be the 'true believers' within the host religion and the loyal guardians of the besieged religious communities, the fundamentalists fight back against the spreading darkness, which the most apocalyptically minded fundamentalists perceive ultimately to be the work of Satan (a.k.a., the devil, the Evil One, the Anti-Christ, the Dajal, etc.). They do so, first, by examining and judging the behaviours and attitudes of their co-religionists, in order to determine who stands inside and who outside the circle of true believers. The selection, retrieval and 'updating' of certain traditional beliefs, especially those most incredible or scandalous to a secular mind, serves to separate the wheat from the chaff, the elect from the reprobate. 'Are you a fundamental Christian? Then certainly you believe fully and without qualification in the bodily resurrection of Jesus, His literal Second Coming on clouds of glory, His birth of a virgin, His "blood atonement" on the Cross for the sins of those whom God has pre-ordained to salvation. And you must believe, most fundamentally, in the strict inerrancy of the Bible, which teaches the full and perfect truth not only in theological matters but also on whatever points of history, biology, cosmology and any other subject it mentions.'

Similarly, Shi'ite Muslims hold fast to belief in the actual return, at the end of history, of the Hidden Imam, the last of the sovereign 'sources of imitation' descendant from the Prophet Muhammad, who went into 'occultation', or hiding, many centuries ago. Testing the co-religionist's willingness to submit his or her modern sensibilities and convictions to the higher authority of religious dogma and revealed truth is the bottom line of such insistences on the affirmation, by modern men and women, of pre-modern beliefs (which outsiders might derogate as medieval 'superstitions').

The demand of unconditional religious obedience was not invented by fundamentalisms. To take but one of numerous possible examples, recruits of the Society of Jesus (the Jesuits), a militant Catholic religious order founded in the sixteenth century to 'fight back' against the encroachments of Protestants, were told that 'if Holy Mother Church proclaims that the black wall before you is white, then it is white'. But fundamentalists create a world of obedience and resistance to secularism/pluralism by deploying a pointedly modern approach to religion.

Herein lies a defining irony of fundamentalisms: these self-proclaimed defenders of traditional religion are hardly 'traditional' at all. Rather, like their secular opponents, fundamentalists are children of modernity. They think and behave as modern people: they are familiar with, and often expert in, the latest technology; they study and imitate twentieth-century political movements and organizational style; they are accustomed to leading complicated and internally divided lives; typically modern are their habits of mind, including the tendency to retrieve carefully selected and 'useful' passages from the vast scriptures and 'illustrative' episodes from their multi-vocal religious history. In Islam, Judaism and Christianity, the majority of fundamentalists are not members of a clergy or religious class, but laity, often technicians and applied scientists. Engineers, medical technicians and computer scientists are heavily represented in fundamentalist movements. They approach the religious tradition as an engineer approaches the blueprint of a new structure he is building – by selecting only the 'tools' in the vast 'tool-kit' that are necessary to complete the task at hand. And the task at hand is the construction of a modern but religious alternative to the secular version of society (Appleby, 2000).

It is not surprising, then, that fundamentalists have little patience for traditionalist or merely conservative believers, who attempt to live within the complex and sometimes ambiguous boundaries of the historic tradition. Fundamentalists, by contrast, are 'progressives' in the sense that they seek to mobilize the religious tradition for a specific temporal end (even if the final victory is expected to occur beyond history). Involvement in politics, civil war, liberation movements and social reform is central to the fundamentalist mentality: religion is, or should be, a force for changing the world, bringing it into conformity with the will of God, advancing the divine plan. In this aspiration fundamentalists are little or no different from other 'progressive' religious movements for social change and justice, including the Latin American proponents of liberation theology.

But fundamentalists fill their own specific niche in the religious landscape by the mode of their religious protest and reform efforts. (It is better – more accurate – to think of fundamentalism as a mode of modern religious protest, into and out of which believers move, rather than as a monolithic, unchanging mindset perpetually inhabited by generic 'fundamentalists'.) Eight defining traits of fundamentalisms emerged from a

multi-year, interdisciplinary exploration of fundamentalisms around the world, sponsored by the American Academy of Arts and Sciences. The Fundamentalism Project produced dozens of case studies of fundamentalist or 'fundamentalist-like' movements on five continents and in seven religious traditions. From these volumes and similar published case studies, three scholars from the project derived five ideological properties of fundamentalisms: such movements are reactive, selective, absolutist, dualist and millennialist. Organizationally, the fundamentalist mode of religiosity originates in an enclave, depends on male authoritarian and charismatic leadership, and enforces distinctive and aggressive behaviours (e.g. dress, diet, dating and other social dynamics designed to be ostentatiously 'over against' the lifestyle choices of religious and secular others) (see Almond et al., 2003).

Let us take a closer look at the ideological properties of fundamentalisms, exemplifying them with examples from some of the case studies. First, however, a few ground rules and cautions are in order. Many of these properties, taken in isolation from one another, apply to religious movements and organizations (and some secular movements and organizations) that are not necessarily fundamentalist. A movement or organization operates in a fundamentalist mode, however, when these properties interact and reinforce one another, revealing a distinctive religious logic. To select 'useful' doctrines and practices from the religious past, or to construct a particular profile of a religious founder that is intended to inspire political action or armed revolt in the present day, for example, is a practice of numerous modern religious movements, including liberal and ecumenical movements of liberation in Latin America and Asia. The mode of religiosity known as fundamentalism comes into play when the selection is motivated by a reaction against an enemy perceived as all-powerful and insidious, and intended not only to inspire revolt or other forms of religious activism but to eliminate an enemy who is perceived as acting in league with cosmic forces of evil.

A second caution is also in order. 'Fundamentalism' can be a misleading term, in that it is derived from a North American, Protestant Christian case of the early twentieth century, which exhibited certain characteristics (such as an insistence on scriptural inerrancy) that cannot be applied universally to 'fundamentalisms' in other religious traditions and parts of the world. The properties described below, by contrast, emerged from a global comparison of movements, rather than by extrapolation from the original Christian case.

In addition, comparing movements is not to be confused with equating them or suggesting that they share a common world-view or programme of action. In the case of fundamentalisms, manifestly they do not. Neither the Baptist preacher and Moral Majority founder Jerry Falwell, nor the late Ayatollah Khomeini of Iran would recognize the other figure as a comrade. Finally, the comparative study of fundamentalisms tells us as much about the failures and struggles of the so-called secular world, which the fundamentalists oppose, as it does about the fundamentalists themselves. This is true not only because fundamentalists tend to be shrewder critics than they are effective philosophers or political actors, but because the 'common ground' they share is their strikingly similar perception of the ills brought about by the secular project (as they see it) of leaving God out of the public picture. In short, the term 'fundamentalism' is used accurately only as a construct of 'family resemblances' among movements that have little in common with one another, apart from an identifiable mode of reaction to a set

of threatening forces that appear to them to be eroding religious ways of being in the world.

Ideological Properties of Fundamentalism

Fundamentalisms are, in the first place, *reactive*. They react primarily against the marginalization of religion in the modernizing, globalizing societies of the twentieth and twenty-first centuries. Strikingly, reactive modern Jews, Christians, Muslims, even Hindu and Buddhist nationalists, share the broad conviction that societies have lost their moorings because they have abandoned God (or, in the case of Hinduism and Buddhism, the religious cult, the way of enlightenment or the *sangha*). The 'death of God' in the secularizing West has been accompanied, in the perceptions of fundamentalists, by the deepening of political corruption, cultural malaise and moral decadence (Wilson, 1999). Hassan Turabi, the leader of the Islamist movement of Sudan, speaking in Washington DC in 1993, argued, for example, that the United States and Europe have been weakened by the separation of church and state, resulting in an operative public atheism and a loss of moral purpose. The so-called 'American century', Turabi predicted, would be followed by an era of religious competition, a time in which the *umma* (universal Islamic community) would be realized in a political entity stretching from West Africa to Southeast Asia. The new Islamic order, by remaining true to the Qur'an and the Hadith of the Prophet, would successfully supplant the West as the world's vital centre (Miller, 1996).

In this respect Turabi anticipated, and gave a measure of validation to, Samuel Huntington's (1996) controversial argument that the conflicts of the twenty-first century would be 'civilizational' confrontations between religio-cultural 'blocs'. (The Islamic world, Huntington believed, would set itself against the Judaeo-Christian 'civilization', culturally Eastern Orthodox Russia against the Confucian/Chinese bloc, and so on.) Similar reactions and reasoning is found in the treatises of radical Jews critical of secular Zionist policies, fundamentalist Christians dismayed by the rise of 'the religion of secular humanism' in the United States, and Hindu nationalists protesting 'affirmative action' policies of the Indian government that favour Muslims and other religious 'minorities' (Falwell, 1981).

The reaction is shaped by the conviction that the forces of secular modernity are organized in a deadly conspiracy – indeed, a battle to the death – against the remaining enclaves of resistance by the religious. Accordingly, the true believers react by imitating the enemy, who is perceived as increasingly powerful and sophisticated. Thus Christian fundamentalists developed 'creation science', or creationism, by which they attempted to replicate the empirical or fact-based methods of mainstream scientists in order to contest the 'agnostics' on their own ground – to 'prove' that the biblical account of creation is supported by the scientific data. Indeed, fundamentalists specialize, ironically, in a form of reductionism. Attempting to defend religion, they shrink it down to earthly size. In the case of creationism, fundamentalists reduce the mysteries of divine revelation to a kind of knowledge akin to the revisable findings of modern science. In the attempt to protect religion from encroaching politicians and governments, they reduce it to a political programme. Thus the Islamic fundamentalists study, envy and

imitate the methods of the hated imperial state, while the founders of the Hindu nationalist movement (the Rashtriya Swayamsevak Sangh or RSS) studied and adopted the methods of European fascists of the twentieth century (Jaffrelot, 1996).

In this type of reaction fundamentalism is *selective*. Unlike traditional believers, who accept the entire scriptural and doctrinal heritage in all its complexity and ambiguity, the fundamentalists select elements of traditional religion that are useful to their political and social programme and ignore the inconvenient rest. They bleed the complexity out of the religion in order to channel its mobilizing power to specific, historically contingent political ends. The Shi'ite Islamic tradition, prior to the rise to political power of the Iranian ayatollah Ruhollah Khomeini, was diffident, at best, about mixing religion and politics. The Shi'ites had come to expect deliverance from their oppression and suffering only at the end of time, with the return of the Hidden Imam, an apocalyptic figure who would return from centuries of occultation in order to vanquish the enemies of the true believers in a dramatic reversal of ordinary history. In the meantime, the Shi'ites would remain politically quiescent, content to suffer in relative silence. Such modesty with respect to temporal aims did not suit Khomeini's grand ambition to overthrow the Shah of Iran and seize power. Therefore, in typical fundamentalist fashion, he selectively ignored the theological tradition, found a thin precedent for theocracy in an obscure concept which he developed into a new and innovative doctrine called 'the rule of the supreme jurist', and assumed authority on the foundation of that newly established 'fundamental'.

Fundamentalists also select from the arsenal of their secular opponents. They acquire Stinger missiles, as the Afghan *mujahedin* did in their battle against the Soviets, outsmart security systems, learn to fly commercial airliners and craft spectacular acts of terrorism, manipulate modern media for their own propaganda purposes and, as mentioned, adopt and adapt the techniques of successful fascist states and militias. No modern resource is inherently off limits in their campaign to preserve 'traditional religion'.

Even as fundamentalists borrow from their enemies, they attempt to insulate themselves from the latter's errors. One such error, as mentioned previously, is relativism – uncertainty about, or indifference to objective religious and moral truth. The antidote to relativism is *absolutism*, a third ideological property of fundamentalisms. The true believers have purchase on 'The Truth', not just on truths or certainties for the moment. The revelation or wisdom that guides them is immune from error, not subject to the vicissitudes of history, chance and personal choice. Accordingly, the Christian fundamentalist insists that the Holy Bible is the inerrant Word of God – fully 'The Truth', not only in religious or spiritual matters, but also in everything the evangelists and other divinely inspired authors understand and report regarding history, science, biology, geography, and so on. In the same vein, radical Jews select and absolutize the Torah command to 'settle the land'. Although this precept is only one of 613 *mitzvot*, or religio-legal obligations, the Jews of Gush Emunim (Bloc of the Faithful) subordinate every duty to this priority, which becomes the 'absolute truth' of Jewish identity (Aran, 1991).

The fourth and fifth ideological properties of fundamentalism feed off each other. Fundamentalists divide the world into two bitterly opposed camps: the elect and the reprobate, the just and unjust, the good and evil. Such *dualism* serves important

practical purposes by raising the stakes of the contest (the enemy is a cosmic, supernatural force), encouraging the self-sacrificing true believers with the promise of an eternal reward, and reinforcing militancy. Suicide bombers in Israel/Palestine, for example, are guaranteed immediate passage to Paradise because they strike a blow against the hated Israelis, depicted in Hamas's media as 'dogs, rats, strangling octopi, pigs, monkeys, dragons, ghouls, Evil Eyes, and bug-eyed creatures to be crushed underfoot' (Oliver and Steinberg, 1995, p. 14).

The seemingly simple-minded division of the world into the righteous and the unrighteous becomes more plausible when fundamentalist preachers depict history as coming to an apocalyptic turning point or culmination. *Millennialism* refers to a theological vision, shared in broad outlines by Jewish, Christian and Islamic teachers and texts, of the end times or last days, an era or 'dispensation' during which God brings history to fulfilment in a dramatic and often violent way. In fundamentalist envisionings, God works through the agency of the true believers, who are no longer bound by ordinary ethical and religious constraints on the use of deadly force in waging the final war, known as the battle of Armageddon. Like dualism, millennialism is functional in that it provides a rationale for the departure from traditional norms and values. Hence the Sikh fundamentalist Jarnail Singh Bhindranwale, who in the early 1980s led brutal raids on Indian state security forces, as well as against moderate Sikhs, selectively retrieved a precept from the Granth Sahib, the Sikh Holy Book, that enjoins Sikhs to abandon restraint and take up the sword when the fate of the Sikh religion itself is at stake. While 'Armageddon', *per se*, is a term derived from the Abrahamic faiths, the concept of 'millennial emergency' travels freely across religious borders and cultures.

Conclusion: On the Impact of Fundamentalisms

As a mode of modern politicized religion, fundamentalism seems destined to remain a prominent feature on the political landscape as well as a shaper of religious and cultural sensibilities. The precedent is strong and deep: over the past several decades 'fundamentalism' has been implicated, *inter alia*, in the battle over the teaching of evolution and creation science in American state schools; in the rise of the New Christian Right to electoral prominence in the United States; in the tragedy of 9/11, the anti-Taliban US air strikes in Afghanistan and the terrorist bombings in Bali, Madrid and London; in the transformation of the Shi'ite Hezbollah and the Sunni Hamas from 'mere' extremist cadres and militias into political parties; in the skill of Jewish religious settlers in luring successive Israeli governments into an expansionist and irredentist policy towards occupied Palestinian territories; and in the deadly skirmishes between Hindu nationalists, Muslim mobs and Buddhist chauvinists of South Asia.

Ironically, our brightest social scientists not long ago predicted that religion was a spent social force, doomed to irrelevance and decline in an age of techno-scientific modernity and rational, linear, 'enlightened' ways of thinking and being.

Indisputably, however, religion in our day is a force for social change. Yes, it is – the informed citizen answers – a force for traumatic social change, sowing chaos, barbarism and violence of all kinds, especially against women, children and the powerless

everywhere. The religiously 'devout' are thereby cast as furious opponents of progress. We can no longer ignore them, adds the policy maker, the security specialist, the political candidate. We must crush them, eliminate them, or at least co-opt and neutralize them.

Yet there is a different way of thinking about religion in the twenty-first century. As an inexhaustible and irreplaceable source of the moral imagination of individuals and communities, religion is also an essential means of understanding, penetrating and transforming the heart of conflicts around the world. Racial and class tensions, civil wars, post-war efforts at social reconstruction – religion is, or could be, an agent of healing and reconciliation in such settings. Religion will continue to inform the way people imagine their worlds, form their character and shape their attitudes towards one another. Religious actors, movements and institutions will continue to be prominent players in local, regional and global politics. This seems beyond question. What *is* open to debate and evolution is the following:

1 How might religious communities plumb and apply their profound resources for inspiring and leading non-violent social change, education for peace, conflict prevention, forgiveness and reconciliation?
2 How can religion's potential partners in waging peace – mediators, diplomats, NGOs, governments – come to a deeper understanding of the religious imagination, the internal life, motives, concerns, sensibilities of the religious?
3 How can we get beyond paralysing polarities of 'us vs. them' and break through the paradoxes that inhibit our ways of thinking about religion, conflict and peace building? For example, how do we disrupt the conventional wisdom and stereotypes about religious extremists and 'fundamentalism' in order to comprehend and incorporate the insights, energies and other gifts they bear?

Among the many questions raised by the surprising resurgence of politicized, anti-secular religious activism – fundamentalism – in our time, perhaps these are the most salient.

References

Almond, G. A., Appleby, R. S. and Sivan, E.: *Strong Religion: The Rise of Fundamentalisms Around the World* (Chicago, Ill.: University of Chicago Press, 2003).

Appleby, R. S.: *The Ambivalence of the Sacred: Religion, Violence and Reconciliation* (Lanham, Md.: Rowman & Littlefield, 2000).

Aran, G.: 'Jewish Zionist fundamentalism: the bloc of the faithful in Israel (Gush Emunim)', in *Fundamentalisms Observed*, The Fundamentalism Project, vol. 1, ed. M. Marty and R. S. Appleby (Chicago, Ill.: University of Chicago Press, 1991).

Berger, P. L.: *Questions of Faith: A Skeptical Affirmation of Christianity* (Malden, Mass.: Blackwell, 2004).

Casanova, J.: *Public Religion in the Modern World* (Chicago, Ill.: University of Chicago Press, 1994).

Dark, K. R., ed.: *Religion and International Relations* (New York: St. Martin's Press, 2000).

Falwell, J.: *Listen America* (New York: Bantam Books, 1981).

Hood, Jr., R. W., Hill, P. C. and Williamson, W. P.: *The Psychology of Religious Fundamentalism* (New York: The Guilford Press, 2005).

Huntington, S. P.: *The Clash of Civilizations and the Remaking of World Order* (New York: Simon and Schuster, 1996).

Jaffrelot, C.: *The Hindu Nationalist Movement in India* (New York: Columbia University Press, 1996).

Lincoln, B.: *Holy Terrors: Thinking about Religion after September 11* (Chicago, Ill.: University of Chicago Press, 2003).

Martin, D.: *On Secularization: Towards a Revised General Theory* (Aldershot, UK; Burlington, Vt.: Ashgate, 2005).

Marty, M. and Appleby, R. S., eds: *Fundamentalisms Observed*, The Fundamentalism Project, vol. 1 (Chicago, Ill.: University of Chicago Press, 1991).

—: *Fundamentalisms and Society: Reclaiming the Sciences, the Family, and Education*, The Fundamentalism Project, vol. 2 (Chicago, Ill.: University of Chicago Press, 1993).

—: *Fundamentalisms and the State: Remaking Polities, Economics, and Militance*, The Fundamentalisms Project, vol. 3 (Chicago, Ill.: University of Chicago Press, 1993).

—: *Accounting for Fundamentalisms: The Dynamic Character of Movements*, The Fundamentalism Project, vol. 4 (Chicago, Ill.: University of Chicago Press, 1994).

—: *Fundamentalisms Comprehended*, The Fundamentalism Project, vol. 5 (Chicago, Ill.: University of Chicago Press, 1995).

Miller, J.: 'Global Islamic awakening or Sudanese nightmare? The curious case of Hassan Turabi', in *Spokesman for the Despised*, ed. R. S. Appleby (Chicago, Ill.: University of Chicago Press, 1996).

Oliver, A. M. and Steinberg, P.: 'Embodied imperative: the command of death in the underground media of the Intifada', unpublished working paper, May 1995.

Rashied, A.: *Taliban: Militant Islam, Oil and Fundamentalism in Central Asia* (New Haven, Conn.: Yale University Press, 2001).

Selengut, C.: *Sacred Fury: Understanding Religious Violence* (Lanham, Md.: Rowman & Littlefield Publishers, 2003).

Steffen, L.: *The Demonic Turn: The Power of Religion to Inspire or Restrain Violence* (Cleveland, OH: The Pilgrim Press, 2003).

Stern, J.: *Terror in the Name of God: Why Religious Militants Kill* (New York: Harper Collins Publishers, 2003).

Wilson, A. N.: *God's Funeral: The Decline of Faith in Western Civilization* (New York: W.W. Norton, 1999).

Witte, J. Jr. and Vyver, J. D. Van Der: *Religious Human Rights in Global Perspective: Religious Perspectives* (The Hague and Boston, Mass.: M. Nijhoff Publishers, 1996).

Chapter 17

Socialism

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The Marxist Legacy

Socialism grew up in opposition to capitalism, just as liberalism developed in reaction to feudalism. Both liberalism and socialism combined potent critiques of the existing socio-economic order with blueprints for a desirable future society. However, liberalism provides a rather more coherent body of thought than does socialism, and its theories are linked with the emergence of a dominant system combining capitalism and liberal democracy. By contrast, no widespread socio-economic order has as yet emerged which can be confidently or closely associated with the ideas of socialism. In both cases the relationship between theories and actual systems is a contestable one, but it has been particularly problematic in the history of socialism.

Liberalism preached a doctrine of free competition and exchange between isolated individuals, policed by an impartial state but unfettered by aristocratic rights and privileges. Liberalism took many centuries to overcome feudalism with its 'old conservative' doctrine of a stable system of hierarchical classes and hereditary rule. As late as 1914 the feudal order remained dominant in Prussia, Austria and Russia, while as Schumpeter (1943) noted, modern capitalism continued to be nursed within the decaying fabric of a more glamorous aristocratic shell. Moreover, the gradual triumph of liberal democracy involved a very considerable dilution and for a time indeed a reversal of the individualist basis of liberalism. The resurgence of an individualistic liberal philosophy in recent decades can be seen either as a culminating assertion of liberalism within a now mature international capitalist system, or as the last gasp of an increasingly ill-matched blend of theory and practice.

Socialism also has taken a long time to develop. Writing mainly in the first half of the nineteenth century, the early socialist theorists displayed a certain ambivalence towards the growth of industrialism, sometimes seeking to harness it to the welfare of the impoverished masses, sometimes turning their backs upon the new order. Their ideas struck chords which were to redound from later socialist movements. Saint-Simon's vision of a technocratically planned and controlled industrial society was presented by him largely as the alternative to an effete and functionless feudal order, but it prefigured later theories (such as those of the early Fabians) of the superiority of state planning over the wastes and inefficiencies of the capitalist system. Robert Owen's

advocacy of self-governing worker co-operatives anticipated guild socialism as the way through which industrial workers could control their own destinies. Fourier's local communities (*phalansteres*), based upon diverse and freely chosen forms of work, set the stage for many socialist experiments in communitarian living down to our own day. Writing somewhat later, Proudhon's egalitarianism and strong belief in individual liberty led him to be regarded, possibly a little erroneously, as the father of socialist anarchism. (For a brief survey, see Crick, 1987, ch. 3.)

These early thinkers combined a passionate interest in social justice with diverse proposals for economic reform. They introduced key themes, such as the dignity of work and the value of workers' co-operation, and also key conflicts, such as that between central planning and industrial self-government, which have marked and sometimes plagued socialist discourse from the start.

However the influence of these early 'utopians', as Marx regarded them, was overshadowed by the gigantic impact of Marxism, which first emerged, dramatically and brilliantly, in *The Communist Manifesto* of 1848. Any account of modern socialist ideology has to come to terms with the legacy of Marxism, even though much (but by no means all) that Marx and Engels proclaimed in the second half of the nineteenth century has now to be discarded as false or no longer relevant.

The strength of Marxism stemmed from its providing both a science and a religion to light the path of the labour movement. To note first its enduring elements, Marx and Engels provided a strong empirical critique of the extreme inequalities and instability of capitalism, and of its capacity to enlist the support of the state in 'liberal' societies. This critical tradition of analysis has retained enormous vitality as the contours of capitalism have changed over the years. Thus in the early twentieth century J. A. Hobson (1902) analysed the ways in which colonies were exploited in the search for new markets and profits, so that British workers (for example) could be co-opted into the system with a share of the spoils. Following a post-1945 period in which state planning and welfare seemed to be taming and controlling capitalism, a fresh impetus of international capitalism developed, linking the whole world into a sophisticated system of mobile capital and financial speculation. It is surely no accident that from the 1960s on there was also a new explosion of 'neo-Marxist' critiques, explaining the features of 'neo-colonialism' in the Third World, suggesting causes for the 'fiscal crisis' of the state (O'Connor, 1973), or analysing the ways in which urban development and planning has been turned into a fruitful arena for capitalist profits (Harvey, 1973).

However, the trenchant critiques of capitalism by Marx and Engels and by their numerous later disciples were (and still often are) accompanied by an allegedly scientific theory of growing class conflict and polarization, followed by inevitable capitalist collapse, which has proved untrue. The ingenuity of neo-Marxists in explaining how the state has been co-opted to buy off revolt by the workers cannot explain the increasing differentiation and complexity of social classes, although developments within capitalism that were unforeseen by Marx can help to explain this development. More fundamentally, Marxism has been vitiated by its 'laws' of economic determinism, which simplify history excessively, underrate the independent influence of politics, and present an improbable future of a classless, conflict-free society. On the other hand, the 'economism' of Marx did represent a significant advance in realistic social thought, and is indeed the mirror image of modern economic individualism, while Marx

himself was by no means so consistent or dogmatic about economic laws as most of his disciples.

The religious element in Marxism found its expression in the workers' prospect of liberation from oppression, alienation and poverty in a future classless society, while his 'scientific' theory further assured the proletariat that their eventual victory was certain, since capitalism would destroy itself through its internal contradictions. Marx's picture of this future classless society was a highly humanist one that managed to combine the economic progress achieved by capitalism (which he recognized) with the transition to a freely chosen and abundant life for all individuals. Once class oppression was gone, there should be no problem over reconciling individual freedom with social solidarity and equality. This Marxist vision, never adequately spelled out, was in truth a lot more utopian than the alleged utopianism of the early socialists; yet the Marxist mixture of science and idealism, laced in practice with a burning sense of social injustice, provided a powerful ideology to back the political struggles of the new industrial working class and its leaders.

Marxism did much to provide the emerging socialist parties of Western Europe with a general philosophy and a final goal in the shape of the 'common ownership of all means of production and distribution'. This goal could incorporate the various socialist beliefs in workers' co-operation and self-management without specifying clearly how a socialist society would actually operate. The First International (1864–76) and Second International (1889–1914) were attempts to incorporate Western labour movements into an international organization based upon Marxist philosophy and the common interests of workers everywhere. These attempts won some success, especially in France and Germany, and up to 1914 it seemed that the emerging ideas of democratic socialism could be reconciled with and partly based on Marxist ideology.

Socialism, however, remained too diffuse and varied a creed to be confined within any one political doctrine or interpretation. British and still more American labour movements were unresponsive to the dogmatic and revolutionary elements in Marxism, preferring peaceful democratic evolution towards a vaguely defined goal, while the English Fabian Society (founded in 1883) struck out on its pragmatic path towards benevolent state planning and welfare. German social democrats were the strongest and most Marxist socialist party, yet here too Bernstein's (1909) 'revisionism' argued that Marx's diagnosis of the course of capitalism was flawed and that its bad features were being gradually overcome through democratic means.

During this period, and to some extent subsequently, socialist anarchism was also a powerful force. Anarchists were often prepared to use violence to destroy the existing political order, but not to use political power in order to remake society. The reconstruction of society was to proceed from the bottom upwards on a basis of individual liberty and free co-operation. The First International was destroyed by the conflicts between Marxists and Anarchists. Anarchism was particularly prevalent in repressive quasi-feudal societies such as Russia and Spain. The same idealistic belief in a moral regeneration of society also existed in a more peaceful and evolutionary form in countries like England, for example in the thought of the Christian Socialists.

The First World War and the Russian Revolution transformed socialism and created an enduring split between its communist and democratic forms. The Bolshevik Revolution was the product of a disciplined elite not a mass proletarian movement, and

occurring also in an economically backward country was very doubtfully related to Marx's theories and expectations. However, its evolution did show up the weakness of Marxist political theory, which viewed government simply as coercion by a dominant economic class and not as a separate or independent source of power. Stalin demonstrated how overwhelmingly tyrannical a complete union of political and economic power could be. The growth of new privileged classes and police tyranny far exceeded any plausible hypothesis about the need for a 'temporary' dictatorship of the proletariat. The communist experiment in Eastern Europe proved finally to be a shattering dead end for one version of socialist ideology which put its faith in the uncontrolled domination of a revolutionary party.

Democratic socialism received body blows in the First World War, first from the complete failure of industrial workers to unite in opposing the war and then from the intellectual hegemony achieved by the successful Russian Revolution. The international brotherhood of workers as a united class could never again resume its central place in socialist ideology, and increasingly it came to be recognized that socialism might take different paths in different countries, although the new international thrust of capitalism (and the consequent weakness of economic planning by individual states) has revived the need to pursue socialism at the international level. In the period between the two world wars, victorious Soviet communism and its pliant tool, the Third International, undermined the growth of Western democratic socialism. Communist antagonism was a prime cause of the collapse of democratic socialism in Germany and Italy, while the example of Russia – as a supposedly successful socialist society – exerted a hypnotic effect upon many Western socialist intellectuals such as Shaw and the Webbs (1935).

Democratic socialism took a long while to recover from the frequent association of socialism with authoritarian communist regimes. Indeed, thanks to the critics of socialism, this disengagement is still not complete. Yet while communism deteriorated and eventually foundered on the rocks, democratic socialist parties managed gradually to win power in Scandinavia and Western Europe, and even Western communist parties showed a democratic face with the advent of Eurocommunism. The biggest change came with the 1959 Godesberg programme of the German Social Democrats, which rejected completely the party's strong Marxist traditions and opted for piecemeal democratic reforms. However, in embracing democracy, socialism makes the feasibility of its final ends dependent upon that of its democratic means and thereby has given a large hostage to fortune. A democratic temper is not only incompatible with the dogmatism and authoritarianism of communism, but also requires large concessions to the exigencies of practical politics as well as toleration of the many diverse traditions and beliefs within the socialist movement itself.

Consequently, the elaboration of a distinctive socialist ideology has been and remains a hazardous enterprise. Embodied in Western political parties, socialism has shown the same pragmatic traits as parties professing liberalism or conservatism; but to claim that this pragmatism has destroyed socialist ideals once and for all would be as false as to refute Conservative Party policies because they do not follow the principles of Edmund Burke or Michael Oakeshott; yet there is the significant difference that socialism remains essentially on the defensive against the capitalist system and its supporting liberal philosophy of 'possessive individualism' (MacPherson, 1962).

Labour parties and trade unions have reached many pragmatic accommodations with capitalist interests. Unions are often concerned primarily with differentials whereas socialism is about equality. In prosperous times Labour parties have been more concerned to 'milk the capitalist cow' than to transform society, until bad times reveal the continuing dominance of capitalism. The effective co-option of Labour leaders by the ruling establishment is a familiar theme of novelists and critics. In the present world some Labour parties have become so accepting of the capitalist market system as to reduce their policies to a very weak form of 'welfarism'.

These trends tread along the fine line between 'democratic socialism' and 'social democracy'. What remains distinctively socialist? Marxism remains relevant for its critique of capitalism but the economic fate of the communist states has given a sharp warning of the bureaucratic and other problems that are inherent in comprehensive state management of economic resources. The goal of 'public ownership of the means of production and distribution' was always for democratic Labour parties a final aspiration, and was only very partially and unsatisfactorily implemented when they gained power. Now it has largely dropped out of the vocabulary of party politics. This does not mean that this goal has become irrelevant, but that socialists must give it a more limited and acceptable meaning and relate it to other elements of a coherent philosophy.

At least the 1980s witnessed a revival of socialist thought. Democratic socialism has trod a long, hard road, lessons have been learned (especially over the limits of Marxism and the fate of communism) and its emerging philosophy is groping for a new synthesis of principles and their possible applications.

First, we are now dealing with 'socialisms' (Wright, 1986). The rich heritage of socialist thought, submerged for a time by simple-minded panaceas, is being rediscovered. The idea that there are different possible forms of socialism, suitable for different times and places, is congruent with a new belief in freedom, diversity and experiment, but in itself would be thin and muddled were it not for a second return to traditional beliefs.

This is the rediscovery of 'ethical socialism', the belief that socialism must be founded upon and reflect the acceptable moral principles of a good society. Marxism had rejected and ridiculed this belief, despite drawing freely in practice upon moral indignation about the evils of capitalism, but now it is the Marxist vision of a classless society – not the appeal to moral principles – which can be seen as utopian. Moral purpose is an essential ingredient of all successful causes, including the world religions.

Abstract moral principles are also inadequate. They must be capable of realization, which implies the need for an effective theory of social transformation. Socialists are still struggling to meet this need by developing theories of the economy, the state and social change, which draw on the socialist heritage but which recognize how much the world has changed from the one known to their predecessors. The remainder of this essay will outline these efforts and some of the puzzles which they present.

Ethical Socialism

Socialism has a more optimistic and positive view of human nature than does conservatism or liberalism. One guiding belief is in the equal moral worth of each

individual. This idea reflects a long Christian and humanist tradition, notably expressed in the moral philosophy of Immanuel Kant (1948). Kant held that every person should be treated as an end in him- or herself, and that moral equality and individual autonomy reflected the two great features of the universe – 'the starry heavens above and the moral law within'.

The belief in 'equal moral worth', 'equal moral capacity' and consequently 'equal entitlement to consideration' is not, of course, confined to socialists. The difference is that socialists take its implications seriously. Conservatives accept a hierarchical order of privilege or talent. Liberals accept the gross inequalities of the market system. Socialism is nothing if it does not struggle to carry the implications of 'equal worth' into the social and economic realms.

Socialists also have a strong preference for social co-operation over competition. Democratic socialists want this co-operation to be based upon a free moral choice rather than upon economic or physical coercion. This hope is often linked with a somewhat Pelagian belief in the *potential* (not necessarily actual) goodness of human beings (Pelagianism was a Christian heresy which believed in the natural goodness of humans). The socialist tendency is towards the assumption of 'moral man in immoral society' rather than its reverse, and consequently carries the expectation that basic institutional reform can release beneficial human energies.

It is easy to criticize these beliefs as unrealistic. Certainly it was natural for socialists, speaking for the poor or exploited, to suppose that good would prevail if what they saw as an evil system were destroyed (Marx shared this view). The fate of many attempted 'ideal communities' shows how easily a belief in natural goodness can be undermined. Yet surely this belief is at least as tenable an aspiration, and much more conducive to human improvement, as modern versions of 'original sin' which assume, for example with the liberal public choice theorists, that every individual is a 'rational egoist', mechanically calculating his material advantage in every situation – in politics as much as in the market (Self, 1985, pp. 48–69).

Ethical socialism draws strongly upon Christian and humanitarian traditions, so that Morgan Phillips (then Secretary of the British Labour Party) once perceptively remarked that his party owed more to Methodism than to Marx. Tawney was the leading figure of English ethical socialism, and the revival of his thought by the 1980s is clearly evidenced in a collection of Fabian Essays (Pimlott, 1984). Tawney foresaw no easy route for socialism, which requires both 'a demanding code of personal conduct and of social organization, appealing to the same principles of fellowship' (Dennis and Halsey, 1988, p. 240). In his view individuals would have to strive unselfishly to build up the social norms, and bring about the institutional reforms, upon which the slow progress towards a more co-operative, equal and 'decent' society depends; and just as these norms could be built up, so they could be run down by lazy or selfish socialists as well as by their opponents. Thus the release of co-operative energies and individual capacities is indeed possible and not utopian, but it is a slow process hinging upon a real sense of 'fellowship'.

The rallying cry of the French Revolution – equality, liberty and fraternity – now constitute essential socialist values. It would be foolish to deny conflicts between interpretations of these values, more especially between liberty and the other two, which causes modern socialist leaders to stress their concern with the freedom value. However,

the point is that the values must not just be taken separately but related within a coherent socialist philosophy.

The egalitarian value is undeniably the most exclusively socialist one and, following some disillusionment with state ownership of industry, it became elevated for a time into the key objective of socialism (Crosland, 1956). Absolute equality is a chimerical and undesirable goal; Bernard Shaw's proposition that the state should give everyone £1000 a year (at pre-inflation prices), and as a necessary condition make sure that he earned it, gives the game away. Extreme equality overlooks the diversity of individual talents, tastes and needs, and, save in a utopian society of unselfish individuals, would entail strong coercion; but even short of this goal, there is the problem of giving reasonable recognition to different individual needs, tastes (for work or leisure) and talents. It is true therefore that beyond some point the pursuit of equality runs into controversial or contradictory criteria of need or merit.

What then is the socialist goal? One approach is to start with a strong presumption in favour of equality, and to insist upon cogent reasons being given for treating individuals differentially. The problem is that defenders of inequality can give reasons for their position, even for a system such as apartheid. Thus one must further require that the reasons are acceptable moral ones which recognize that most basic individual wants and aspirations are common to all (Rees, 1971, pp. 91–125). But this is no more than to return to the socialist's starting point; either the factor of our common humanity is seen or it is not. One cannot make the blind see.

For practical purposes the socialist has an answer to these problems. Economic inequalities are so enormous in the modern capitalist world that substantial progress in reducing them should be practicable without running into the sands of detailed judgements about differential claims. In allegedly affluent countries, such as the USA or the UK, the top 10 per cent command over nine times the income (even after tax) of the bottom group, and completely dominate the ownership of wealth. Increasing numbers of millionaires or billionaires coexist with a sixth of the population living below the official poverty line (for a survey see Hoover and Plant, 1989). The contrast between rich and poor countries is still more glaring, with two-thirds of the world still locked in hunger (and increasingly so in many countries), while the affluent are titillated with ever more sophisticated – and often environmentally destructive – consumer goods (Harrington, 1989, ch. 6). Thus the pursuit of equality can be seen as essentially an onslaught upon gross inequalities that contradict the very idea of the dignity and worth of the individual. As Tawney said (1935, p. 27), when a more decent and humane society has been brought about, it will become more practicable to arbitrate the more detailed issues of differential needs and claims.

The pursuit of equality has been badly fudged by its assumed or declared dependence upon continuous economic growth. The ethical case for equality does not hinge upon any particular level of economic development, but simply requires that the wealth of the community – whatever it may be – should be fairly shared. Indeed, the moral injunction to do this is greater not less in hard times, while the assumption that more affluence brings more fellow feeling has proved far from true.

In socialist eyes the value of individual liberty has been perversely appropriated by liberals. Isaiah Berlin's (1969) well-known distinction between 'negative' and 'positive' liberty has been perverted by extreme liberals ('libertarians') into the argument that

only the negative form of liberty is real and that it should be restrictively interpreted as the absence of direct coercion. 'Positive' liberty, in the sense of the exercise of free will or of moral autonomy, is possible even for a slave and, as Berlin says, no amount of favourable conditions will necessarily bring individuals to exercise positive liberty. However, as he also recognizes, the scope for personal development or for the responsible exercise of citizenship does depend a lot upon the individual's social and economic circumstances. Thus the enjoyment of liberty can be broadly said to depend upon the range of opportunities open to each individual, and upon the extent to which she or he is in a position to make a free choice of career and way of life (Ryan, 1984).

Restrictive coercions upon individual freedom will always exist and come variously from the state, the economic system and, as J. S. Mill stressed, the sanctions of public opinion, but these sources can also provide beneficent opportunities. The critical questions are how to trade off the diverse pattern of restrictions and opportunities which surround the individual. Libertarians insist upon regarding the state as the sole agent of coercion, and it is true enough that the state has a unique power of direct coercion which has produced the worst tyrannies. Vigilance against excessive state power is as necessary for a socialist as anyone else. Yet it is surely perverse to ignore the enormous indirect power of the capitalist system over individual lives and opportunities, exercised with the necessary support of the state over the making and enforcement of laws of property and contract, and supported by the substantial political influence of wealth.

Berlin himself does not make this error, since he fully recognizes that 'the bloodstained story of economic individualism' has led to 'brutal violations of negative liberty', and that 'the case for intervention, by the state or other effective agencies, to secure conditions for both positive, and at least a minimum degree of negative, liberty for individuals, is overwhelmingly strong' (Berlin, 1969, pp. xlv–xlvi). The curious point is that as recently as 1969 Berlin thought that capitalism had been tamed and curbed by the state, without foreseeing the rapid explosion of a new libertarianism. Socialism has to return to propounding a concept of liberty grounded in human experience and not in an obsession with property rights.

Thus it is natural for socialists to bring in the state, not only to combat gross inequalities but to diffuse and modify economic power and to enlarge the opportunities open to individuals, more particularly the poor and disadvantaged. Free men and women cannot accept the Hayekian thesis that an admittedly amoral (or immoral) economic system must not be interfered with because of the latent danger of an unacceptable degree of state coercion. That is an appeal to Hobbesian fears, not, this time, of anarchy but of its opposite. In considering the balances of coercion and freedom one has to ask the old question: is the rich man more restricted by having to pay a high tax rate or the poor family by being unable to keep their children healthy or send them to a decent school?

T. H. Green, a liberal before the great split between liberals who believed in welfare (and often became socialists) and those who stuck with *laissez-faire*, described the role of the state as 'removing obstacles to the good life' (Green, 1890). Ethical socialism has an Aristotelian belief in the promotion of individual capacities for self-development and personal fulfilment. There is a difference here from the agnostic liberal view that the 'good life' is a wholly subjective matter of personal opinion and choice (Dworkin,

1978), or that alternatively, as Bentham put it, 'quantity of pleasure being equal, pushpin is as good as poetry'.

The belief of earlier socialists in the great value of education and cultural development generally, exemplified by such bodies as the Workers' Educational Association, seems to have faded away in the modern world of the mass media and capitalist 'bread and circuses', yet this belief in the capacity of individuals to pursue 'higher goals', according to their special capacities and tastes, still needs to remain basic to socialist goals. It is a necessary condition of responsible citizenship, without which a socialist world can never be democratically created. It extends not only to the enrichment of leisure, but to the transformation of the work system so that William Morris's ideal of 'honourable and fitting work' for all in 'decent surroundings' should become a possibility, not (as in the capitalist society) an irrelevance. Within this context, monopoly ownership and trivialization of the mass media, and the perversion of education to meet solely market demands not personal development, are especially offensive to socialists.

Fraternity and/or, as Crick (1987, pp. 98–106) prefers, 'sisterhood', is the third socialist value, standing alongside equality and liberty and functioning as an essential solvent for their realization and reconciliation. Tawney regarded it as the basic value and termed it 'fellowship', meaning a free acceptance by individuals of a mutual obligation to care for each other. In the past fraternity was the right word, because this sentiment was largely confined within a male industrial working class, especially workers in heavy industry. The mutual co-operation among workers, both informal and formal, through friendly societies, unions, workers' clubs and cultural events like Welsh *eisteddfods*, warmed socialist hearts with its contrast with the chilly individualism or occasional calculated charity of the bourgeoisie. However, this fraternity was limited by a narrow reference group and male chauvinism, so that modern socialists need to cope with the barriers to fellowship caused by differences of sex and ethnicity as well as between rich and poor countries (Phillips, 1984).

It would be impossible to sweep away these barriers quickly so socialism has to proceed through a gradual extension of sympathy and consideration for the needs of different and remote groups, and through a search for institutional means of reducing group tensions. More than this, universal benevolence has a chilly character unless associated with the personal practice of face-to-face fellowship. The revived socialist concern with the value of local community may be seen partly as a tactical retreat from broader horizons, but also as renewing in an appropriate modern way the socialist legacy of direct fellowship.

The greatest moral problem for socialism has always been the tendency for the pursuit of fraternity to end up as its opposite. This is especially the problem of revolutionary socialism where, in the worst case of Stalinism, 'socialism achieved its apogee in the period of the destruction of social bonds' (Nowak, 1983, p. xvi). In much milder form democratic socialism has always had the problem of reconciling its ideal of voluntary co-operation with an extensive use of state powers. Socialists can argue that the coercive impact of the state turns not simply or even primarily upon the number of its acts but upon their methods and acceptability. The coercive defence of property rights under conditions of inequality and instability can and has led to more repressive acts than democratic socialism need necessarily require.

All the same, socialism has difficulty in coming to terms with the coercive powers of the state. The important anarchist tradition, now muted, had no use for the state. Many socialist idealists looked forward to a time when conditions of abundance would have solved the 'economic problem' and individuals could lead a free life of voluntarily chosen work and leisure, in which both individual freedom and free fellowship could flourish. Marx himself subscribed to this vision, as did such utopian socialists as Oscar Wilde.

Short of such utopian beliefs, many socialists have believed – and still believe – in what Martin Buber (1950) called the gradual transformation of political power into social power. The project here is one of a peaceful revolution from below, whereby co-operative cells are formed at the grassroots which spread and transform society from within. This was the essence of G. D. H. Cole's (1917) concept of 'guild socialism', which favoured the creation of a system of worker's self-management permeating the operations of industry from the base upwards. Such proposals could build upon the early success of friendly societies, consumers' co-operatives and other forms of self-help in new industrial societies, and some socialists deplore the way that these earlier initiatives have been overtaken by massive, top-down measures of state planning and welfare. For some socialists this is a retreat from a true concept of fellowship and co-operation.

There has been a long conflict within socialism between the arguments for centralized planning (geared to equality and efficiency) and grassroots socialism (geared to liberty and fellowship). Outstanding examples concern the balance to be struck between the powers of central and local government and the choice to be made between public corporations and guild socialism as devices of common ownership. In the past the centralizers have won most of these arguments. As a movement seeking radical social change, socialism has always been understandably disposed to want to make sweeping changes from the top downwards. Considering their goals, democratic socialist governments have been surprisingly circumspect in their use of state powers, but a belief in strong centralized planning has certainly dominated. Today the balance is swinging in the other direction, but centralized powers are still needed to establish or promote local forms of democratic socialism.

Socialists have often been reproved with having anything but fraternal feelings for each other. Individuals who believe passionately in a cause are bound to find mutual toleration difficult, and there have always been passionate differences over both ends and means within the socialist camp. These are the conditions that can spawn intolerance of dissenting opinions among colleagues as well as opponents. A genuinely moral and democratic concept of fellowship needs the safeguard of open dissent, and the best, perhaps only real, protection against excessive use of state powers is citizens who think for themselves.

There are many possible definitions of socialism, ranging from empirical statements about planning or public ownership to highly idealistic visions of a future society (see Wright, 1986, p. 20). A definition which joins equality and liberty is Bottomore's:

> the creation of a social order in which there is the maximum feasible equality of access, for all human beings, to economic resources, to knowledge, and to political power, and the minimum possible domination exercised by any individual or social group over any others. (Bottomore, 1984, p.190)

Interestingly, this definition stresses the very diffusion of power within society which market liberalism claims so unconvincingly actually to produce. It stresses the very limited nature of political rights if these are accompanied and influenced by highly unequal economic power, and the limitations of democracy if it has no scope in the workplace and the boardroom. It ties in with T. H. Marshall's (1963) hopeful but as yet unrealized extension of modern citizenship into the spheres of social and economic rights. All this is a long way removed from much traditional socialism and its pursuit depends upon translating the third value of fellowship into its political context of responsible citizenship.

The Socialist Economy

Socialism is basically about human welfare. Socialists have always wanted to put 'first things first', to attend to the basic requirements of a good or at least decent life for all before satisfying the luxuries of the affluent. Today this concern necessarily extends (in view of environmental crises) to the basic needs of future generations and to the general quality of life for all (the affluent included). Moreover *democratic* socialism is dedicated to the promotion of individual autonomy and responsible participation in social and political life. Socialism seeks to broaden the political concepts of both social welfare and democratic procedures.

Viewing the modern world, socialists cannot but see a gross neglect of these basic priorities. The traditional socialist criticism of capitalism as wasteful and inefficient gains new force from the irresponsibility of 'casino capitalism', from the human tragedies of massive unemployment, from the instability of a system which places local communities in bondage to financial decisions made in distant boardrooms, and from the rapid exploitation of natural resources and its dire environmental effects. Surely, the socialist will exclaim, we can do better than this!

Capitalism has the seeming advantage of a coherent economic theory which argues the generally beneficial outcome of voluntary exchanges in competitive markets. However, the modern capitalist system is far removed from its supposedly theoretical basis. Not only is the system pervaded throughout by inequalities of bargaining power between individuals and groups, but it is dominated by giant citadels of economic power; what exactly, for example, is the relationship between the theory of perfect competition and (in many countries) the dominance of the media by a few proprietors? (Yet the media is a vital channel of information and education to all citizens, not – as it is now widely regarded – just another industry.) As Heilbroner (1985) concludes, neoclassical market theory is a convenient rationalization of the interests of the dominant social formation (capitalism) which pursues its own special dynamism of extending the opportunities for private profit.

This capitalist dynamism can be claimed to have raised the material standard of living in Western societies in such matters as food, clothes and household equipment. Writers such as Hayek and Freidman assume that the same dynamic will continue to deliver large increments of human welfare because their eyes are fixed upon the past and an abstract theory, not upon actual social and institutional change. Inevitably, among the affluent, increments of market goods yield diminishing returns; plastic dolls

and visits to distant beaches (often polluted) may be welcome but they do not yield the solid satisfaction of a square meal or a warm overcoat. The growth of 'positional goods' (Hirsch, 1976), meaning goods which are necessarily elitist or in limited supply, bids up competition for a limited range of positions or causes environmental damage through the multiplication of cars, yachts, second homes and other private goods. The diversion of economic growth into positional goods widens inequality and reduces public access to basic resources of land and water. Capitalism uses technology to produce increasingly sophisticated goods by a diminishing proportion of the labour force, while functions vital for human welfare – such as environmental conservation, the renewal of urban infrastructure, many social services and houses for the homeless – are left very short of resources even in many rich countries.

Socialism is admittedly stronger in its critique of capitalism than in its design of a coherent alternative. Some socialists seized on Keynesianism as offering an alternative economic blueprint. Keynes's own concern was with the mismatch between savings and investment, the consequent unemployment and need for a public investment programme (Keynes, 1936), a diagnosis that retains its basic validity. However, in the Keynesian post-war period of high employment, a different kind of institutional 'stickiness' developed in the form of wage and price inflation. Traditional market theorists and right-wing politicians could now argue that if one particular market 'distortion' (wages) were pushed downward to their 'natural' level, the system would work efficiently even at the cost of high if allegedly temporary unemployment.

This conclusion was quite unjustified because what Keynesianism actually helps to reveal is that the whole economic system (and not just wages) is pervaded with institutional rigidities and inequalities. If the cure for inadequate or misdirected investment is corrective action by the state, so also should the cure for inflation take the form of a statutory incomes and prices policy, not the debilitating medicine of low wages and unemployment. This possible socialist interpretation of Keynes stands in contrast to the 'neoclassical synthesis' which reconciles Keynes with orthodox market theory (Eatwell and Green, 1984); yet the socialist interpretation, valid as it may be, still amounts to a series of institutional corrections rather than the full design of a new order.

Even an extended form of Keynesianism would retain the capitalist system, although it would greatly modify its operations. For many socialists, this approach amounts to mere empty 'reformism', to supping with the enemy. For example, Adam Przeworski (1985, p. 243) says, 'if socialism consists of full employment, equality and efficiency, the Swedish Social Democrats are reasonably close to this goal, especially if they also socialise much of industry'. He concedes that such reformism may be excellent and necessary, but claims that it is not socialism. Similarly John Dunn (1984) defines 'true socialism' in terms of a drastic cultural change in all human relationships which, however appealing, is utopian because socialists offer no realistic blueprint of how it could be realized. These writers are but echoing the long utopian socialist tradition that is strong on ideals but feeble on effective action; yet such critiques point also to a real issue: to what extent do socialists still believe in 'common ownership', and can or should democratic socialism have any truck with capitalism?

Before trying (briefly) to tackle this question, it is as well to point out that the Swedish achievements, as listed above, did represent progress towards all three socialist values of equality, liberty and fellowship. Full employment policy preserves the dignity and

worth of the worker and enlarges his liberty; Swedish wage policy entails sacrifices by the more skilled workers to help the less skilled, an example of both fellowship and equality; and the high level and comprehensiveness of Swedish welfare services increases not only equality but the opportunities for disadvantaged individuals to lead a reasonable life. Comprehensive state welfare is often claimed to weaken family and local ties with baleful effect upon ‘fellowship’, but Ringen (1987) concludes that it has strengthened amity and companionship within families. Possibly there may be effects both ways.

Another major step forward that could be possible within the capitalist system is much stronger participation by workers in the details of work organization. Such measures enhance both fellowship in working life and give some room for individual autonomy – for example, technology can often be used either to deskill the worker or to increase the independence and interest of his or her work. Hodgson (1984, pp. 129–52) quotes plenty of evidence that workers’ participation often increases their productivity as well, but is often resisted by managers (and sometimes union officials) defensive of their command or bargaining roles. Harrington (1989, pp. 188–217) notes the opportunities which advanced technology offers for more autonomous forms of work, but adds that management may prefer technology which restricts the workers’ role and skills.

‘Economic democracy’ is not exclusively a socialist creed; for example, it is warmly endorsed by a liberal pluralist such as Dahl (1985). However, the empowerment of workers through such means as workers’ co-operatives would further advance the distinctive socialist values, and is now generally the preferred way of promoting the traditional socialist goal of ‘common ownership’. The theory corresponds to the socialization of production caused by its modern dependence upon multiple skills and accumulated resources of research and education; but because of the complex social choices to be made between alternative forms of technology and organization, it does not amount to a full blueprint for the management of industry.

A vigorous debate has emerged about the desirability of ‘market socialism’. The phrase may be an unhappy one if it suggests that socialism would accord markets, even played according to different rules, the dominant place in its desired system. Many socialists, perhaps understandably, equate markets with capitalism. However, the price signals given by competitive markets do provide an efficient way of meeting consumer preferences for those goods which are not better collectivized. Consumer markets seem to play an essential role in any system, and attempts to separate production from consumption decisions (as in the Soviet Union) have been anything but successful. Some socialists cannot accept any system which retains some role for profits; however, if production were largely in the hands of worker’ co-operatives, and their entitlement to profits was limited, profits would be more equitably shared as well as playing a smaller social role.

A socialist economy would entail not only a widespread development of economic democracy, but a considerable redirection of investment so as to meet social and environmental priorities. There would need to be a plan for steering surplus labour into socially valuable but not strictly profitable tasks. Many functions might need to form an intermediate sector between tax-supported social services and profitable enterprises. There would be basic economic and social entitlements which in hard times would have

priority over additions to private consumption. These various activities would not necessarily be directly operated by the state but government would certainly need to orchestrate and facilitate them.

A socialist economy would need to modify and transform the capitalist market system quite drastically in order to cure its abuses and introduce significant social values that are absent or trampled on. It could also, however, aim to preserve the competitive and allocative functions of markets. For example, David Miller's (1989) version of 'market socialism' envisages a system of market competition between self-governing workers' co-operatives who would get their capital from publicly owned or controlled investment banks. Thus capital would be socialized and ownership of productive facilities diffused (as far as proved practicable) among workers, but the system would still be motivated by prices and profits. Indeed, Miller would control the allocation of capital in order to maintain maximum competition, a policy which would also protect small firms as offering the most fruitful opportunities for workers' self-government. Capital funds would also be allocated for such purposes as regional development and environmental conservation.

Any such plan poses problems over issues such as the effective management of the investment banks and the maintenance of small workers' co-operatives under modern technological conditions. The biggest problems would appear to be political, in the double sense of achieving a successful transition to a radically new system and of managing well and without abuses the substantial new public powers which the system would entail. It can be very plausibly argued, however, that some such version of the 'new socialism' would increase the freedom and autonomy of workers without necessarily hurting the interests of consumers.

Plans of this type go well beyond the bounds of mere 'reformism', of tinkering with the capitalist system. The radicalism of their goals can be seen from the conflicts with capitalism that have arisen over plans for workers' ownership in the relatively benign environment of Sweden. It is often claimed that if workers wanted to create co-operatives, they could do so perfectly well under capitalist institutions, but in fact the large accumulations of acquisitive market power which these institutions produce are inimical to the smaller size and different incentives which prevail in workers' co-operatives. Where the economic climate can be made more benign, and a suitable investment bank created, workers' co-operatives function well, as is shown by the Mondragon co-operatives in the Basque region of Spain (Thomas and Logan, 1982).

Many socialist idealists dislike any such concept of 'feasible socialism' (Nove, 1983) because it retains scope for markets, profits and competition. However, an ideal of purely voluntary co-operation requires conditions of economic abundance which simply do not exist in the modern world. In the visionary socialist ideal, the problem of production has been solved and the individual is free to choose a life of personal self-fulfilment. From Marx onwards, socialists have favoured economic development that brings that day nearer. This goal remains highly relevant so far as it concerns the provision of decent material conditions for all citizens, but that goal is still distant.

Beyond that point, modern socialists have considerable sympathy with the values of a post-materialist society. They accept the need for environmental conservation and protection; they share the concern for quality of life as opposed to the mere multiplication of new consumer goods; and they would like to enhance the dignity and autonomy

of work, which suggests restrictions upon the size and direction of economic enterprises and the exclusion of many dubious commercial practices. The difficult challenges before socialism are to ensure that the costs of limiting economic growth are equitably shared, that priority is given to basic material needs, and that the opportunities of a post-material society are widely shared and not confined to the tastes of middle-class radicals. Such ideas actually look back as well as forward, to socialist ideals of a simpler but more satisfying life, in which the accumulation of possessions counts for less and the cultivation of personal capacities and of community life for a great deal more.

The design of a workable socialist economy is inevitably difficult simply because the modern capitalist world is so very far removed from ultimate socialist ideals. Indeed this world, with its towering concentrations of international finance and its urgent 'Third World' and environmental problems, is also a long way removed from conditions in which it made some sense to talk of 'socialism in one country'. On the other hand, the failure of capitalism to solve problems of unemployment and inequality, or to cope adequately with quality of life concerns, offers hope for some movement towards socialist ideals across a broad front of nations. Such a movement may inevitably use new forms of the 'mixed economy', but that need not matter if ground can be genuinely gained for the future.

To gain such ground, it is necessary for socialists to rebut the association of capitalism with a beneficent form of 'economic growth'; and to show that capitalism, even when prosperous, leads to a distorted form of growth which has many adverse features and omits many urgent social needs. There is now a plentiful literature and evidence to support a critique of this kind. The problem for socialism is to develop and popularize a theory of human welfare which shows how a wider range of goals can be specified, evaluated and effectively pursued.

The design of a workable socialist economy is therefore an untidy, controversial and pragmatic affair. There are no easy answers to the balances to be struck between central planning and local initiatives, between various forms of economic organization and the relations between them, or over the various uses of taxes, subsidies and regulations. As Nove says (1983, p. 213), socialists cannot neglect the economic problems of efficient allocation, calculation and valuation, although they will apply different values from capitalism to these measurements. Socialism does not have the luxury of a comprehensive economic theory, but the apparent advantage of capitalism in this respect rests in large part upon a methodological illusion. Neoclassical economics gains its elegant coherence through its abstraction from social and institutional conditions. Any theory that depends upon purposeful collective action is necessarily more pragmatic and institutional. It need not be the worse for that fact. There can be no determinate theory of collective action, since the results depend upon motives and means and upon the ultimate capacity of human societies to shape their own destiny.

The Socialist State and Society

The picture of a too powerful, oppressive and bureaucratic state has become the bogeyman of anti-socialist argument. A crude contrast is drawn, following the much earlier theories of Mises (1922) and his disciple Hayek (1944), between the beneficial

outcomes of 'free markets' and the oppressive features of 'centralized planning'. This argument has gained impetus from the collapse of allegedly the only actual examples of socialist systems, those of Eastern Europe. This comparison is quite untenable in the modern world. Not only is organized capitalism far from the free market theory and deeply entangled with the supportive role of the state, but democratic socialists see progress towards their values as having occurred in some Western European countries and certainly not within the Eastern bloc.

However, modern democratic socialists are willing, perhaps too willing, for a coherent philosophy as opposed to political tactics, to join in heavy criticism of the state. Socialism cannot in fact dispense with a strong and effective use of political power. Such power is the only way of changing the economic system and, more immediately, of checking the present abuses of capitalist power. In some respects, socialists have to argue that modern Western states are not too strong but too weak, too dependent upon the special market forces and interests of organized capitalism, especially in relation to its enormous international range and impact.

Moreover, socialists see many uses of political power as being not oppressive but enabling. They should be used, for example, to help individuals to achieve a decent material sufficiency and to have real opportunities for personal growth; to protect them from the appalling impacts (now and in the future) of environmental degradation; and to remove the curse of unemployment by the development of new opportunities for socially useful and intrinsically satisfying forms of work. All these aims require a more positive use of powers which states already exercise in such fields as regulation, taxation, subsidies, incentives, research, education and technical advice – only redirected to other and better ends.

Socialists also believe in the collective provision of at least some basic services, such as health and education. They see a positive value of 'fellowship' in the joint sharing of basic risks and opportunities, and in the promotion of a civilized 'public estate' (of streets, parks, cultural and recreational facilities, public transport and an attractive environment) in place of the waste, ugliness and inequalities of a society dominated by private consumption. As Barry (1989) says, this belief need not imply an 'organic' or idealistic theory of the state itself or a denial of the value of individual choice. There is no such thing as unstructured individual choice; the state's role is to change the parameters within which such choices are made – for example by changing the balance of advantage between the uses of public transport and the private car – and to promote the common interests of a shared civilization in place of the entrenched rights to property and its unlimited acquisition.

The critical question for democratic socialists is how far a transformation of society will be voluntarily accepted and seen as good by individual citizens. Socialism in the past has certainly been prone to try to impose its goals from the top downwards, but so – and arguably to a greater extent – have right-wing governments. The new feature in Western socialism is its stress upon the desirability of democratic forms of participation and control at all levels within the state and the economy. Socialists have come to believe in decentralization in such forms as workers' co-operatives and participation in industrial decisions; a broader and more discretionary role for local governments; and direct participation by clients in the running of such services as health and education.

These new beliefs represent a remarkable *bouleversement* in the history of socialist thought. There must be reservations, however, as to how far the concept of decentralization can be taken under the actual conditions of the modern world. For one thing, the freedom for local governments, workers' co-operatives or local school boards could lead to the re-emergence of substantial inequalities; some framework for controlling and redistributing resources has to be kept. More significantly, many economic or environmental goals can only be effectively pursued by higher levels of government – increasingly indeed at an international level. Thus Luard, in his *Socialism without the State* (1979), ends up quite realistically by allocating as many new functions to the international as to the local level. Socialist political power needs, at least for the time being, to match the realities of economic power, and to move to such wider forums as the European Community.

There is a possible answer to this problem of over-centralization through the ultimate development of socialism. Thus socialism could seek to redesign the economic system and to utilize the marvellous flexibility and inventiveness of modern technology so as to create relatively smaller and more self-sufficient political communities, linked in ways which accept but reduce their mutual dependence. Such a vision borrows from the ideas of Schumacher (1974) and other believers in 'small is beautiful' to create communities with greater stability and autonomy (hence more scope for fellowship), and having systems of work and leisure that reflect both individual creativity and proper care for the environment. Some losses of technical productivity and gains from trade might be willingly accepted in such societies as being less important than the realization of human values. This is an authentic socialist vision, not so different from the earlier ideas of Kropotkin (1901), which could realize the old ideals of individual creativity and voluntary co-operation far better than a world of large controlling organizations; yet it must be admitted that, save for particular community experiments, it is a long distance away from present realities.

Democratic socialism, notably in the English Fabian tradition of the Webbs but also in the German tradition, has tended towards a favourable view of bureaucracy, viewed as a strong, essential and rational element for transforming society. The newer stress upon democracy as well as much practical disillusionment has heavily qualified this attitude; yet bureaucracy remains essential to socialist goals not only for the efficient and impartial administration of laws (as Etzioni-Halevy, 1983, rightly says, democracy needs bureaucracy to guard against the ever-present dangers of political patronage], but also for its technical resources, since one of socialism's strongest assets is the attraction of public service for talented and idealistic individuals. Socialism therefore needs to promote a creative bureaucracy, skilled enough to help resolve the many technical problems of policy implementation and independent enough to apply those policies without fear or favour.

The creation of such a bureaucracy represents a formidable challenge for socialism. The dangers of 'technocracy' are now widely understood and feared, not least by many socialists. However, if socialism is to strive for a society which places much more stress upon basic needs and less upon profit-making, and which enlists technology positively to overcome pressing environmental dangers and to design a more creative system of work, skilled advice and support has to be assembled for these purposes and given the encouragement to produce fertile ideas. Such results cannot be expected so long as the

thinking of bureaucracy is governed by a narrow economic orthodoxy, independent thought is discouraged and much policy work is farmed out to private consultants. In line with socialist ideas, the dehumanizing secrecy of bureaucratic opinion needs to be ended, and open, creative debate encouraged among official experts and advisers, while leaving final decisions to the politicians. Conversely, impartiality and incorruptibility are more necessary than ever in the actual administration of the laws, given the many obstructions and financial temptations which capitalist institutions can use to block socialist reforms. However much decentralization is introduced, the revival of a distinctive sense of public service and the 'public interest' is an essential step forward for democratic socialism.

Socialism has much difficulty over finding any theory of social transformation which could replace the failed Marxist belief in the victory of the proletariat as an emergent dominant class representing society as a whole. Not only have classes become more fragmented but the very concept of 'class consciousness' has taken some hard knocks. The underclass of modern capitalism consists of a fragmented set of disadvantaged groups who show (as yet anyhow) little capacity for cohesion or effective action. The working class, while much diminished (but possibly growing again as automation cuts into clerical work and a new army of low-paid, often female workers emerges), is still a possible basis of socialist change. The enlarged middle and professional class can be regarded either as effectively co-opted by capitalism or as a possible reservoir for radical action (Bottomore, 1984, pp. 143–4).

Political parties have replaced the concept of the proletariat as the carriers of socialism. Socialist parties can hope to enlist support from new social movements such as environmentalism, feminism and sometimes ethnic or regional groups. However, these movements have an independent momentum, and environmentalism in particular has replaced socialism in many countries as the cause of idealistic youth. This is a sobering situation for socialism. It can seek common ground in its critique of capitalism and in embracing, up to a point, environmental goals, but any such loose alliance is faced by the more clearly defined and entrenched interests of the defenders of the existing system. Disillusionment with capitalism can certainly bring about the victory of nominally socialist parties, but the conditions of political competition easily draw those parties into sectional and opportunistic policies or into retreat in the face of a hostile economic environment. Moreover, in placing democratic consent in the forefront of their principles, socialists have a heavy task in gaining the support of public opinion for radical measures.

Democracy must be seen as the 'wild card' in modern socialist theory. Attachment to democratic pluralism has become the conventional wisdom of political theory, not just a new belief of socialism. Socialism claims to take the concept more seriously by extending it into economic life and by seeking greater economic and social equality so as to 'empower' individuals more effectively, but as Durbin (1940) warned, an increase in equality does not necessarily produce more democracy. Mass opinion can be tyrannical, lazy or apathetic. Socialism by its own choice can now be built only upon a basis of responsible citizenship, as being necessary for both the widespread popular participation which socialism now seeks and for developing the firm public support needed to withstand the certainty of strong, hostile counter-attacks.

The 'responsible citizen' that socialism needs is far removed from the apathetic individual absorbed in private consumption and pleasure who is so willingly tolerated and

indeed preferred by dominant interests in Western societies; he or she is a long way too from the calculating egoist assumed and even admired by much liberal thought. The responsible citizen actually takes politics seriously and has social ideals. Socialists therefore have to give priority, not just afterthoughts, to educational goals and to the reform of the media so as to achieve greater diversity of opinion, more and more reliable information and fuller treatment of social issues.

Perhaps the best hope for a socialist transformation lies in Connolly's 'interpretive' theory of political change, based upon his view of society as 'a porous set of institutional interdependencies in which participants retain some capacity for reflexivity' (Connolly, 1981, p. 43). On this view the existing system has the powerful support of confining debate within a given set of individual opportunities and expectations, as well as of the need of most individuals to accept and feel at home in their society. However, there is not complete structural determinism, since individuals are also capable of gradually perceiving too wide a gap between the ideology of the existing system and their actual experience.

This description fits surprisingly well the almost spontaneous dissolution of Eastern communist regimes. The gap there between ideology and actual experience simply became too great. Ironically, as the dissonance between market theory and capitalist outcomes also grows greater, the same diagnosis could apply to the capitalist democracies. Their systems are more sophisticated, and include the safety valves of free opinion and political choice, but these devices are weakened by public apathy where political choice seems too limited or narrow, as it increasingly does in capitalist societies. Schumpeter's belief that capitalism will be destroyed through its increasing lack of credibility could still, in a way, prove right.

Modern socialism has to reject both historical or structural determinism and the weak 'psychologism' of liberal individualism which abstracts the exercise of choice from its social context. Socialism has to rally to its banner all those who are disadvantaged and dissatisfied with the 'possessive individualism' of the existing order, since it can no longer ground its appeal upon the collective interests of a homogeneous proletariat. Socialism is said to have changed from being an idea in search of a constituency to a constituency in search of an idea (Wright, 1986, pp. 115–16).

The problem for socialism is not that it has no attractive ideas to offer this potential constituency. It has good and appealing ideas in abundance, even if their integration is a difficult task. Its problem is much more one of persuading the somewhat politically disillusioned or apathetic citizens of Western societies that it could deliver its promises without succumbing to the dangers of political turmoil or corruption and bureaucratic inefficiency.

Socialism therefore has to re-establish the potentiality of politics for creating the framework of a better life in place of the dominant liberal view of politics as wholly an arena of competing interests and self-regarding individuals. To do this it has to stress the moral basis of citizenship itself instead of appealing simply to the material interests of political supporters. A society made up of rational egoists pursuing exclusively their private interests in both economic and political life is bound to continue its downhill route. Socialism can be seen as struggling within a crippled world (Hampton, 1981) because the impulse to fellowship, which is the necessary basis for a decent society, is confined to particular groups and retains little vitality at the civic or political level. The

limitations and difficulties of extending 'fellowship' into politics has, of course, always been a stumbling block for socialist ideals, but they can tap the dismay which many people feel at the decline of community values in the modern world under the influence of economic individualism.

Socialists also have to prove their practical capacity to design new political institutions which express their goals effectively. This also is not easy because of the tensions that are bound to exist between their adherence to extending the scope of democracy and their need to establish new institutions for supervising market operations. The most beneficent socialist reforms, if they are to be effective, are bound to awaken old anxieties about the uses of state powers. Socialists have to stress the truth that politics, whatever its appearances, settles either positively or by abnegation the framework of society. It must be a socialist belief that, whatever the political risks and dangers, a good society can only be built upon sound political foundations, not the internal logic of a particular market system.

While socialism is intrinsically optimistic about the potentialities of human nature, it can no longer countenance facile utopian hopes. Every advance towards socialism involves a forward step in the social norms of co-operation and understanding, and each advance can easily be reversed. Socialism has changed dramatically from being the prophet of proletarian revolt to becoming the standard-bearer for new meanings of democracy and community. Its adherents can only live up to that role if they eschew political opportunism and advance clear moral arguments. There are no short cuts to socialism.

Thus, as Bernstein recognized long ago, socialism is a movement, not a set of finite goals. It must be tested by the congruence of its immediate direction with its basic moral yardsticks, as well as by the practical efficacy of each step in facilitating further progress. The mistaken and partisan identification of democratic socialism with authoritarian communism must finally be buried, and credit not cynicism awarded for the modest but genuine steps towards socialism achieved in some democratic countries. Bernstein, and at a later stage Tawney, recognized progress towards socialism in the politics of their societies; as events have shown, they were too sanguine, but ground lost is capable of being regained. Socialism needs its visionaries and can absorb a catholicity of interpretations about the final goals of society. It was ever thus, but socialist philosophy will always rest upon a positive view of the capacities of ordinary people to shape their collective destiny.

References

Barry, B.: *Does Society Exist? The Case for Socialism* (London: Fabian Society Tract 536, 1989).

Berlin, I.: 'Two concepts of liberty', in *Four Essays on Liberty* (Oxford: Oxford University Press, 1969).

Bernstein, E.: *Evolutionary Socialism* (1899); (New York: Schocken Books, 1961).

Bottomore, T.: *Sociology and Socialism* (Brighton: Harvester Press, 1984).

Buber, M.: 'Marx and the renewal of society', in *Paths in Utopia* (1950); reprinted in *Essential Works of Socialism*, ed. I. Howe, 2nd edn (New Haven, Conn.: Yale University Press, 1976).

Cole, G. D. H.: *Self-Government in Industry* (London: Bell, 1917).

Connolly, W.: *Appearance and Reality in Politics* (Cambridge: Cambridge University Press, 1981).

Crick, B.: *Socialism* (Milton Keynes: Open University Press, 1987).

Crosland, C. A. R.: *The Future of Socialism* (London: Jonathan Cape, 1956).

Dahl, R. A.: *A Preface to Economic Democracy* (Berkeley, Calif.: University of California Press, 1985).

Dennis, N. and Halsey, A. H.: *English Ethical Socialism* (Oxford: Clarendon Press, 1988).

Dunn, J.: *The Politics of Socialism* (Cambridge: Cambridge University Press, 1984).

Durbin, E.: *The Politics of Democratic Socialism* (London: Routledge, 1940).

Dworkin, R.: 'Liberalism', in *Public and Private Morality*, ed. S. Hampshire (Cambridge: Cambridge University Press, 1978).

Eatwell, J. and Green, R.: 'Economic theory and political power', in *Fabian Essays in Socialist Thought*, ed. B. Pimlott (London: Heinemann, 1984).

Etzioni-Halevy, E.: *Bureaucracy and Democracy* (London: Routledge and Kegan Paul, 1983).

Green, T. H.: *Lectures on the Principles of Political Obligation* (1879); reprinted in *Collected Works*, ed. R. Nettleship (London: Longmans Green, 1890), vol. 2.

Hampton, C.: *Socialism in a Crippled World* (Harmondsworth: Penguin Books, 1981).

Harrington, M.: *Socialism Past and Future* (New York: Arcade Publishing, 1989).

Harvey, D.: *Social Justice and the City* (London: Edward Arnold, 1973).

Hayek, F. A.: *The Road to Serfdom* (London: Routledge and Kegan Paul, 1944).

Heilbroner, R.: *The Nature and Logic of Capitalism* (New York: W. W. Norton, 1985).

Hirsch, F.: *Social Limits to Growth* (Cambridge, Mass.: Harvard University Press, 1976).

Hobson, J. A.: *Imperialism* (London: 1902); 3rd edn (London: Allen and Unwin, 1938).

Hodgson, G.: *The Democratic Economy* (Harmondsworth: Penguin Books, 1984).

Hoover, K. and Plant, R.*: Conservative Capitalism in Britain and the US* (London: Routledge, 1989).

Kant, I.: *The Moral Law*, ed. H. J. Paton (London: Hutchinson, 1948).

Keynes, J. M.: *The General theory of Employment, Interest and Money* (London: Macmillan, 1936).

Kropotkin, P.: *Fields, Factories and Workshops* (New York: G. P. Putnam, 1901).

Lichtheim, G.: *A Short History of Socialism* (London: Weidenfeld and Nicolson, 1970).

Luard, E.: *Socialism Without the State* (London: Macmillan, 1979).

MacPherson, C. B.: *The Political Theory of Possessive Individualism* (London: Oxford University Press, 1962).

Marshall, T. H.: 'Citizenship and social class', in *Sociology at the Crossroads* (London: Heinemann, 1963).

Miller, D.: *Market, State and Community* (Oxford: Clarendon Press, 1989).

Mises, L. Von: *Socialism* (Jena: 1922); (Indianapolis, Ind.: Liberty Classics, 1981).

Nove, A.: *The Economics of Feasible Socialism* (London: Allen and Unwin, 1983).

Nowak, L.: *Property and Power* (Dordrecht: D. Reidel, 1983).

O'Connor, J.: *The Fiscal Crisis of the State* (New York: St Martin's Press, 1973).

Phillips, A.: 'Fraternity', in *Fabian Essays in Socialist Thought*, ed. B. Pimlott (London, Heinemann, 1984).

Pimlott, B., ed.: *Fabian Essays in Socialist Thought* (London, Heinemann, 1984).

Przeworski, A.: *Capitalism and Social Democracy* (Cambridge: Cambridge University Press, 1985).

Rees, J.: *Equality* (London: Macmillan, 1971).

Ringen, S.: *The Possibility of Politics* (Oxford: Oxford University Press, 1987).

Ryan, A.: 'Liberty and socialism', in *Fabian Essays in Socialist Thought*, ed. B. Pimlott (London, Heinemann, 1984).

Schumacher, E. F.: *Small is Beautiful* (London: Abacus, 1974).
Schumpteter, J.: *Capitalism, Socialism and Democracy* (London: 1943); 5th edn (London: Allen and Unwin, 1976).
Self, P.: *Political Theories of Modern Government* (London: Allen and Unwin, 1985).
Tawney, R. H.: *Equality* (London: 1935); repr. (London: Allen and Unwin, 1964).
Thomas, H. and Logan, C.: *Mondragon: An Economic Analysis* (London: Allen and Unwin, 1982).
Webb, S. and Webb, B.: *Soviet Communism: A New Civilization?* (London: Longmans, Green, 1935).
Wright, A.: *Socialisms: Theories and Practices* (Oxford: Oxford University Press, 1986).

Further reading

Bottomore, T.: *Sociology and Socialism* (Brighton: Harvester Press, 1984).
Crick, B.: *Socialism* (Milton Keynes: Open University Press, 1987).
Dennis, N. and Halsey, A. H.: *English Ethical Socialism* (Oxford: Clarendon Press, 1988).
Harrington, M.: *Socialism Past and Future* (New York: Arcade Publishing, 1989).
Heilbroner, R.: *The Nature and Logic of Capitalism* (New York: W. W. Norton, 1985).
Howe, I. ed.: *Essential Works of Socialism*, 2nd edn (New Haven, Conn.: Yale University Press, 1976).
Lichtheim, G.: *A Short History of Socialism* (London: Weidenfeld and Nicolson, 1970).
Marshall, T. H.: 'Citizenship and social class', in *Sociology at the Crossroads* (London: Heinemann, 1963).
Miller, D.: *Market, State and Community* (Oxford: Clarendon Press, 1989).
Pimlott, B., ed.: *Fabian Essays in Socialist Thought* (London, Heinemann, 1984).
Schumacher, E. F.: *Small is Beautiful* (London: Abacus, 1974).
Schumpteter, J.: *Capitalism, Socialism and Democracy* (London, 1943); 5th edn (London: Allen and Unwin, 1976).
Tawney, R. H.: *Equality* (London, 1935); (London: Allen and Unwin, 1964).
Wright, A.: *Socialisms: Theories and Practices* (Oxford: Oxford University Press, 1986).

Recent Developments

MICHAEL FREEDEN

The collapse of communism radiated shock waves among socialists from which socialism has not yet recovered. Those under former communist rule have associated the ideas and language of socialism with repressive state direction, and many have recoiled even from mild forms of social democracy (Szacki, 1995; Brown, 2004). But the utopianism, militant radicalism and economic inefficiency harboured within many West European socialist parties in the 1960s and 1970s also encouraged dramatic internal shifts within socialisms. In addition, the fragmentation of contemporary ideological structures has produced significant reconfigurations. Socialist themes such as equality, democracy, participation and anti-poverty have been dispersed across protest movements that display

less organizational and ideological coherence than attained by socialist thinking at its zenith, indicating the demise of the traditional centralized mass socialist party. Consequently, socialist debate has been marginalized or silenced, even by comparison with the early 1990s, when social democratic parties still justified deviations from hallowed beliefs. Socialists responded to hostility in the wider political community by attempting to disguise their fundamental beliefs or to refashion them in new forms of social democracy. Any analysis of socialism now has to confront socialism *sans la lettre*.

In parallel, socialists have had to face the successes of neoliberalism. While rejecting the extreme competitiveness of neoliberal policies, socialist thought has rediscovered its own insistence on self-developing individual choices and diversity. Socialists have resurrected their affinities with liberalism, though whether with welfare liberalism or market liberalism is debatable. The former, prominent especially in the UK and in Scandinavia, produced a hybrid in which socialism's vision of emancipation overlapped with liberalism's welfare inclinations. At those ideological interstices, mutual responsibility and a sense of human interdependence and fragility have encouraged and justified the free development of individual potential (Freeden, 2003). Current progressive thinking is divided over whether the state should provide those guarantees for wholesome human life within vibrant communities, or merely enable others to furnish them. That divide also encompasses two views of the welfare state: as a sustainer of well-being for all citizens or, with the American model of 'from welfare to work' in mind, as a dispenser of permanent aid to the socially incapacitated, and temporary aid to the unwilling or unskilled.

The most striking rewriting of the socialist agenda has been effected by New Labour's 'Third Way' in the UK, echoed in Germany's 'die neue Mitte' and elsewhere (Bastow and Martin, 2002). By contrast, France retained a more traditional, if watered down, statist socialism, particularly through protecting workers' employment conditions against a backdrop of a strong trade union movement and more limited deregulation (Clift, 2005). The Third Way followed the realization that nationalization – the last vestige of socialism's revolutionary drive – was electorally unpopular, and its further pursuit impossibly disruptive in a constitutional democracy. In the 1990s many Western socialists disassociated themselves from socialism itself – witness Tony Blair's reference to a 'social-ism' in which communal values of mutual responsibility substituted for theories of strong egalitarianism and mutual interdependence (Blair, 1994; 1998). Significantly, these 'post'-socialisms no longer saw themselves principally as representatives of the dispossessed but wooed the middle classes with a new set of principles. Eschewing the language of class conflict, their project was one of coming to terms with a regulated capitalism, establishing respect and credibility for a modernizing political leadership, and encouraging values through which citizens would become economically and socially accountable (Giddens, 1998). On the surface, this resembles Swedish welfare policy that regarded economic growth and efficiency as a prerequisite to the distribution of welfare. But despite underlying state regulation, the emphasis on a supply-side market economy, flexible markets, 'civil society' and public–private partnerships has been more pronounced. The Third Way was an unusual blend of socialist, liberal and conservative ideas: equality of opportunity and the importance of choice were interlaced with protecting the needy; encouraging self-help, work and productivity; social responsibility rather than an excess of rights; and the moral authority of

communal social norms (Freeden, 2005). A managerial culture, in line with the Fabian tradition, has replaced much of socialism's radical and imaginative edge.

Apart from the Third Way, socialism in its critical mode has been subsumed within the broader category of the left (Eley, 2002). Here, looser associations attest to socialism's ideological diffusion, rather than disintegration. Socialist ideas have permeated other ideologies operating under different labels, subscribing to 'post-material' values, such as feminism and even anarchism. That is in part socialism's success, though it seems also to have lost its distinct sense of ideological identity.

That diffusion has been accompanied by the strong promotion of decentralization, participation and grassroots democracy. The twin concepts of equality and democracy have replaced those of class and of solidarity (Newman, 2005). Red–Green political and ideational coalitions, as in Germany, have abandoned the vision of plenty of their antecedents in the face of ecological evidence (Talshir, 2002). The socialist vision of control over nature to the benefit of humankind is being replaced with the sustainable management of natural resources. These successors to the New Left operate mainly as a counter-culture to state-oriented social democracy but need the latter to supplement their commitment to the redistribution of wealth.

The application of socialism to single nation-states has been challenged by its international obligations to peace and development and to closing the gap between rich and poor, reflecting a growing concern over global unrest occasioned in part by vast inequalities. The alternative socialisms, operating partly outside and partly within the social democratic party framework, increasingly recognize the importance of different identities and their need for expression, thus departing from the unitary implication of the old left's directive policies. The secularism of socialism, however, has produced no workable responses to the politics of religious identity and has struggled with the notion of multiculturalism when it conflicts with principles of civil equality. On the international dimension, the universalizing drive of socialism is confronted with reinvigorated forms of capitalist globalization, reinforcing the very logic of capitalism that socialism had attempted to stem and subvert in the nineteenth century.

References

Bastow, S. and Martin, J.: 'Third way ideologies', special issue, *Journal of Political Ideologies*, 7, 3 (2002).

Blair, T.: *Socialism* (London: Fabian Society, 1994).

—: *The Third Way: New Politics for the New Century* (London: Fabian Society, 1998).

Brown, A., ed.: *The Demise of Marxism–Leninism in Russia* (Basingstoke: Palgrave Macmillan, 2004).

Browne, M. and Diamond, P.: *Rethinking Social Democracy* (London: Policy Network Press, 2003).

Clift, B.: *French Socialism in a Global Era* (London: Continuum, 2005).

Eley, G.: *Forging Democracy: The History of the Left in Europe, 1850–2000* (Oxford: Oxford University Press, 2002).

Freeden, M.: 'The coming of the welfare state', in *The Cambridge History of Twentieth-Century Political Thought*, ed. T. Ball and R. Bellamy (Cambridge: Cambridge University Press, 2003).

—: 'The ideology of New Labour', in M. Freeden, *Liberal Languages* (Princeton, NJ: Princeton University Press, 2005).
Gamble, A. and Wright, T., eds: *The New Social Democracy* (Oxford: Blackwell, 1999).
Giddens, A.: *The Third Way* (Cambridge: Polity Press, 1998).
— ed.: *The Global Third Way Debate* (Cambridge: Polity Press, 2001).
Markovits, A. S. and Silvia, S. J.: 'Green trumps red? Political identity and left-wing politics in united Germany', in *Transformation of the German Political Party System*, ed. C. S. Allen (New York and Oxford: Berghahn Books, 1999).
Newman, M.: *Socialism: A Very Short Introduction* (Oxford: Oxford University Press, 2005).
Szacki, J.: *Liberalism after Communism* (Budapest: CEU, 1995).
Talshir, G.: *The Political Ideology of Green Parties* (Basingstoke: Palgrave Macmillan, 2002).

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A Companion to Contemporary Political Philosophy

2nd Edition

Volume II

Edited by

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Blackwell
Publishing

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BLACKWELL PUBLISHING
350 Main Street, Malden, MA 02148-5020, USA
9600 Garsington Road, Oxford OX4 2DQ, UK
550 Swanston Street, Carlton, Victoria 3053, Australia

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First edition published 1993
This edition published 2007 by Blackwell Publishing Ltd

1 2007

Library of Congress Cataloging-in-Publication Data

A companion to contemporary political philosophy / edited by Robert E. Goodin, Philip Pettit. – 2nd ed.
p. cm.
Includes bibliographical references and index.
ISBN 978-1-4051-3653-2 (hardcover : alk. paper) 1. Political science–Philosophy. I. Goodin, Robert E. II. Pettit, Philip, 1945–

JA71.C565 2007
320.01–dc22
2007005639

A catalogue record for this title is available from the British Library.

Set in 10 on 12.5 Photina
by SNP Best-set Typesetter Ltd., Hong Kong
Printed and bound in Singapore
by COS Printers Ltd

The publisher's policy is to use permanent paper from mills that operate a sustainable forestry policy, and which has been manufactured from pulp processed using acid-free and elementary chlorine-free practices. Furthermore, the publisher ensures that the text paper and cover board used have met acceptable environmental accreditation standards.

For further information on
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www.blackwellpublishing.com

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Volume II

Part III

Special Topics

Chapter 18

Autonomy

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The concept of autonomy has assumed increasing importance in contemporary political philosophy. Philosophers such as Rawls, Wolff, Scanlon, Raz and Hurley have employed the concept to ground principles and illuminate issues such as the choice of principles of justice, the justification of political authority, the limits of free speech, the nature of the liberal state and the justification of democracy.

It is not clear why there has been this increased reliance on the idea of autonomy. Partial explanations include the revival of interest in Kantian moral and political theory, the increased popularity of contractualist theories in general, the search for a fundamental normative notion that would command widespread agreement in societies beset by conflicting ideologies, the popularity of hierarchical analyses of freedom and autonomy in the area of intersection between moral theory and philosophy of mind, the critiques of welfare economics (and utilitarianism more generally) for taking preferences as simply given in light of what we know about how preferences are shaped by society.

But the fact that different theorists may use the same word should not lead one to assume that they are all referring to the same thing. One reason for supposing that they are not is that different political philosophers are worrying about different problems. Perhaps the same concept is useful in thinking about the nature of political obligation and distributive justice, but this cannot be assumed to be the case.

There is also a tendency to use the concept in a very broad fashion. It is sometimes used as equivalent to liberty, sometimes as equivalent to freedom of the will, sometimes identified with rationality, or sovereignty. It is applied to very different entities: to actions, to persons, to the will, to desires, to principles, to thoughts.

My own view is that as a term of art, one cannot look to the ordinary uses of the concept. What a theorist must do is construct a concept – given various theoretical purposes and some constraints from normal usage. But the construction of the concept must be relative to a set of problems and questions. Therefore, in looking at the uses of the term in contemporary political philosophy philosophers one should do so with the following questions in mind.

First, one wants to know what the set of problems is that the author is confronting. Is she interested in some deep, metaphysical issues about the nature of rationality and freedom as, for example, Kant was? Is she interested in promoting some ideal of human

development and fulfilment as Mill was? Is she interested in a practical issue such as Scanlon's concern with principles for freedom of expression? Is she interested in using the concept to ground some broader view of, say, the legitimacy of the state? Is she trying to explain why paternalism is wrong or why the legal enforcement of morality is not a legitimate function of the state?

Second, one wants to know as specifically as possible how the term is actually being used or defined or characterized by a specific author. Of what is the term predicated? Is it of a person? If so, is it a term that can apply to a moment of time, a span of time, a life? Is it of his actions? Is it of his beliefs, values, desires? Is it a property that other species could possess or only humans?

Third, one would want to know how the concept is related to other concepts that the author uses. Is autonomy different from liberty? Is it a kind of liberty? Can one be autonomous and unfree? Autonomous and ignorant? Autonomous and irrational? Autonomous and evil? Autonomous and in prison? Autonomous and coerced? Autonomous and a child? Autonomous and a parent? Autonomous and a patient? Autonomous and a law-obeyer?

Fourth, one wants to know how the term is functioning normatively. Is it a good thing to be autonomous? Why? Because autonomous persons are more likely to achieve some other good thing or value? Because autonomy is valuable in and of itself? Is it a good thing to autonomously choose x, where x is a bad thing or a trivial thing? Is it better for people to autonomously choose to do evil things or to non-autonomously do the right thing? Is autonomy supremely important, very important, sometimes important? Does interference with autonomy always call for some kind of justification? Why? Is autonomy a fundamental notion in terms of which other values are explained? Or is its value reducible to other notions?

Finally, one must make an evaluation. Does the concept help with the particular set of problems the author faces? Does it help but lead to other problems? Are the problems created by the use of this concept less serious than those the theorist would face if she used some different notion?

The proper form of criticism of some theorists' use of autonomy is either that the set of problems they are concerned with are uninteresting or confused, or should be replaced by some other set of questions. Or that although the problems are genuine this way of looking at autonomy is not helpful or useful or insightful in thinking about these issues. And that could be for a number of different reasons varying from internal problems with the concept – is it self-contradictory or leads to some kind of regress difficulty or is too vague? – to the criticism that while the concept is clear enough and consistent, it runs too many things together or makes distinctions where they are not needed.

For a number of different problems (in particular for thinking about the role of the state in promoting various values, ideals and attitudes) and for considering the limits of legal coercion, I believe the most useful conception of autonomy is the following: autonomy is a second-order capacity of persons to reflect critically upon their first-order preferences, desires, wishes and so forth, and the capacity to accept or attempt to change these in light of higher-order preferences (Dworkin, 1988, p. 20).

Autonomy and Neutrality

I believe that the most important task for which autonomy has been harnessed in contemporary political philosophy is to argue for a certain ideal of the liberal state: that of neutrality. The idea of neutrality is itself complex and has different formulations. But the root idea is that the state must recognize and acknowledge the autonomy of persons, i.e. the capacity of persons to stand back from their current ends and ideals, to question their value, and to attempt to change them if necessary. In order to recognize this ideal of autonomy the state must not justify its actions on the basis that some ways of life are intrinsically better than others; the state does not rank various ways of living and attempt to promote some rather than others. This does not mean that the state is neutral in any stronger sense. Its policies may differentially favour different conceptions of the good, in that the *consequences* of its policies may promote a more favourable environment for some conception of the good at the expense of others.

The neutral state is opposed to various perfectionist theories, i.e. theories which believe the state ought to promote certain ways of living, and discourage others, because some ways of living are better, more valuable, than others. Theorists of the neutral state believe perfectionism ought to be resisted, not because they are sceptical about ranking ways of life, but because they believe that the political sphere must always honour the capacity of individuals to change their views about what kind of life is worth living, and that only if we are free to form and revise such ideas can we be said to be *leading* a good life, as opposed to simply *having* one (Kymlicka, 1990). I would like to trace this theme in three influential political theorists: John Rawls, Joseph Raz and Ronald Dworkin.

Autonomy and Hypothetical Consent

As is well known, Rawls believes that the principles of justice are those that would be chosen by rational and mutually disinterested persons, behind the 'veil of ignorance'. The veil of ignorance ensures, among other things, that the agents do not know what particular vision of the good life they have. But they do know that they have some conception of the good, and more importantly, they know that they are motivated to exercise and realize two moral powers, viz. the capacity for a sense of justice and 'the capacity to form, to revise, and rationally pursue a conception of the good' (Rawls, 1980, p. 525). It is the last capacity, which Rawls calls 'rational autonomy', which requires the veil of ignorance, for if '[the parties'] ends were restricted in some specific way, this would appear at the outset as an arbitrary restriction on freedom' (Rawls, 1971, p. 254). This assumption about what motivates the parties in the 'original position' enables Rawls to argue for economic institutions and political liberties which encourage and enhance the capacity of individuals to form and revise their conception of the good. (What Rawls calls 'full autonomy' is what occurs when persons are motivated to act in accordance with principles that would be chosen by rationally autonomous persons.)

It looks, then, as if Rawls is building into the foundation of his theory a particular value, namely, that of autonomy, and giving it precedence over other values, such as being secure from influences that might lead one to change one's ends. In fact I believe he does this, and there is nothing objectionable about it. In political philosophy, as in life, you can't get something from nothing. What is distinctive about a political theorist is the nature of the 'something', and how conscious he is that this is his starting point. For Rawls, his 'something' is a particular ideal of the person, having obvious grounding in Kant.

An obvious objection to the theory is that those who reject this ideal (either completely or at least give it much lower priority among values) will have no reason to follow the further development of the theory. Rawls attempts to soften this objection by arguing that he values autonomy not as part of a 'comprehensive' moral doctrine, but as part of a purely 'political' conception. Justice as fairness does not 'seek to cultivate the distinctive virtues and values of the liberalism of autonomy', i.e. does not attempt to promote autonomy as a general moral value, but only as part of the 'political good of a well ordered society' (Rawls, 1988, p. 270). His hope is that there will be a sufficient consensus among different ideological viewpoints (including those that do not give great value to autonomy considered as a general ideal for persons) that for deriving principles of social justice 'rational' autonomy is a common value. I am less confident that such a consensus is likely, but I do not take the absence of such a consensus as showing that the Rawlsian project is mistaken. For if the theory contains as part of it a non *ad hoc* explanation of why some differing viewpoint does not (cannot?) see the genuine value of autonomy, the absence of a consensus only shows that the theory cannot 'convince', not that it is not convincing.

Autonomy and Coercion

Joseph Raz uses the concept of autonomy to consider a related problem: the legitimacy of state coercion (Raz, 1986). He wants to derive principles that will determine what kinds of behaviour the state may seek to limit by means of the criminal law. Like Mill, he believes that harm to others (the harm principle) is the only legitimate reason for justifying criminal sanctions. Unlike Mill, he believes a certain amount of paternalism may be justifiable – justified by the harm principle but the harm in question being that to the person who is being restricted.

Unlike Mill, Raz does not seek to derive the harm principle from utilitarian considerations. Instead he believes it is derivable from a principle of autonomy. He defines autonomous persons as 'those who can shape their life and determine its course . . . creators of their own moral world' (Raz, 1986, p. 154). There are certain conditions which are necessary for a person to be autonomous – adequate options, sufficient mental abilities, and freedom from coercion and manipulation. Finally, Raz interprets autonomy so that its value is dependent on being directed at good options. A person may be autonomous even if he pursues what is bad, but his autonomy only has value if he chooses the good.

One might think that since autonomy 'supplies no reason to protect worthless let alone bad options' (Raz, 1986, p. 411) that this opens the way to the justification of

legal moralism, i.e. the view that the state is entitled to interfere with immoral (although harmless) conduct. Raz does not think so. Here is his argument:

> [The] harm principle is defensible in the light of the principle of autonomy for one simple reason. The means used, coercive interference, violates the autonomy of its victim. First, it violates the condition of independence and expresses a relation of domination and an attitude of disrespect for the coerced individual. Second, coercion by criminal penalties is a global and indiscriminate invasion of autonomy. Imprisoning a person prevents him from almost all autonomous pursuits . . . there is no practical way of ensuring that coercion will restrict the victim's choice of repugnant options but will not interfere with their other choices. (Raz, 1986, pp. 418–19)

This argument is not convincing. First, coercing a person for some immoral behaviour need not show disrespect for him, merely for his conduct. Second, of course by Raz's definition of autonomy coercion interferes with autonomy. But this is just as true if we coerce people who harm others. Two additional premisses are required.

The first is that autonomy may be interfered with only to promote greater autonomy. The second is that when one harms another one interferes with autonomy, but when one does something immoral but not harmful one does not. The first is unsupported by any arguments, and has unacceptable implications. For example, it would not allow the law to restrict conduct which offends others, such as defecation in public.

The second premise is also implausible. If I stick a pin into you, causing pain, I would certainly seem to harm you, but if one refers back to the definition of autonomy I see no reason to suppose that I have interfered with your autonomy. Raz (1986, p. 414) notes that 'the prevention of severe pain justifies coercion. The explanation of our concern to avoid pain is a fascinating subject which cannot be undertaken in this book'. In addition to this omission in the argument, he seems, by implication, not to consider either less than severe pain or offence as a ground for coercion. Conversely, if pornography is freely available, thus making it difficult for some to raise their children with certain ideals of sexuality, it would seem that their ability to 'shape their life . . . [and] create their own moral world' is adversely affected.

Autonomy and Moral Paternalism

The last use of autonomy I want to examine is that of Ronald Dworkin. In his Tanner Lectures on the 'Foundations of Liberal Equality' he develops an argument against state paternalism which, although he does not use the term 'autonomy', relies on the idea that the good life for persons is necessarily one that they create for themselves, that is lived from the inside as opposed to led from the outside. He argues for what Kymlicka has called the 'endorsement constraint': 'no component [of a person's life] may even so much as contribute to the value of a person's life without his endorsement . . . no event or achievement can make a person's life better against his opinion that it does not' (Dworkin, 1991, p. 50).

This thesis grounds an objection to moral paternalism, i.e. the state's use of coercion to make people morally better. For it is an essential premiss of that view that some intervention can improve the quality of a person's moral life or character, and as a

result her life goes better for her. But according to the endorsement thesis, if genuine endorsement is not forthcoming then moral paternalism cannot be successful.

In principle this argument also applies to ordinary paternalism. If the would-be suicide is prevented from committing suicide, but does not welcome the life he is forced to lead, then on the endorsement view we cannot say that his welfare has been increased. The reason the argument has less interest in this case is that in most cases it is uncontroversial that the actions being interfered with have a description under which they are not counter to endorsed ends of the agent. Few deny that cigarettes are unhealthy, or that cancer makes their life go worse. They simply insist on their right to engage in unhealthy activities. It should be noted, however, that there is an argument which is parallel to the one we are considering. This is the claim that since autonomy – the ability to determine for oneself what to do – is itself an important component of well-being, one cannot be made better off against one's will.

What makes moral paternalism distinctive is that it is precisely the evaluation of the activity being interfered with that is controversial. Homosexuals do not think they are engaging in immoral activities. Atheists do not think that they are living a life of sin. Those who watch pornography do not think they are being corrupted. *A fortiori* they do not think that a life without these activities is a morally superior life.

It is important to see that even accepting the endorsement view does not rule out moral paternalism on conceptual grounds alone. For even if, say, forced prayers cannot by themselves contribute any value to the person's well-being (on the assumption that a life of religious devotion is a good for a person) it may still be that as a result of praying the person comes to see the value of prayer and its attendant way of life.

There is a second way in which moral paternalism can be effective even assuming the endorsement constraint. Namely, that although there may be some fact about the person that he does not value or endorse, e.g. that he is loved by others or is courageous, this fact may have consequences for other aspects of the person's life that he does endorse. For example, the person who is loved may, in spite of his lack of endorsement, benefit from that fact. He may, for example, be more confident and therefore successful in achieving his goals. And given that he does endorse the idea of success, he is benefited by the existence of the fact in question. This is so even if he does not recognize the fact that there is this causal connection.

Still, if the endorsement constraint is correct it does seem to provide strong grounds for resisting moral paternalism. The interesting issue then becomes whether the constraint is correct. Does autonomy enter crucially as a constraint on what makes a person's life go well? This question goes back at least to Kant, who denied that any natural fact about a person's situation, e.g. that a certain course of action would give him great pleasure, provided a reason for that person to act unless he endorsed pleasure as one of his ends.

Thus, autonomy enters into every part of contemporary political philosophy theory, from the theory of justice to the theory of value.

Recent Work on Autonomy

In the past decade theoretical work on autonomy and its connections with liberalism have proceeded apace. In particular, theorists have tried to integrate the work being

done in the philosophy of mind literature on various conceptions of the autonomous self with the issues in political philosophy. While the intuitive ideas of independence and self-direction still proved the contours of the non-political discussion, they have been refined and developed in various ways. Distinctions have been drawn between 'moral autonomy', i.e. roughly making one's moral outlook one's own, and 'personal autonomy' – a broader notion, which could include moral autonomy, of self-regulation in all one's conduct; distinctions of how global or local the assessment of autonomy should be: the person? the person's desires? the person's motivational set? the particular action that is in question? There are debates about the connection between autonomy and various other concepts such as rationality, freedom, morality, compassion. In each case the issue arises as to whether autonomy is consistent with, requires or is inconsistent with the concept in question. Could Hitler be autonomous? Can monks be autonomous? Does autonomy require rational decision making?

Now, of course, if autonomy is tied in various ways to political issues – such as a necessity to justify a state to all its citizens – then which notion of autonomy we use is going to make a difference. If, as some critics of autonomy charge, autonomy as self-governance is impossible, or inconsistent with accepting an obligation to obey the law, then either we have to find a suitable notion of autonomy, or scrap autonomy, or abandon certain projects of liberal democracy. If autonomy is essential to the identity of citizens, and if, as the Rawls of *Political Liberalism* (1993) requires, citizens must be able to stand back from some of their value commitments and not allow them to enter into political arguments (the most prominent instance of this is one's religious beliefs) then autonomy may be motivationally incompatible with one foundation for liberal democracy. Of course, this particular foundation has been attacked for other reasons, but one can see how particular conceptions of autonomy also play into the debate.

Some of the non-political debate seems to be quite independent of the questions that political philosophers are interested in. For example, ever since the first hierarchical theories of Frankfurt and Dworkin were proposed, i.e. theories which lodge authority in some higher-order motivation, there have been criticisms that such theories are either without warrant (why should my second-order desires have more authority than my first-order desires?) or indeterminate (why stop at any particular level of desires?) or are involved in infinite regress. Such discussion is certainly interesting for its own sake, but it is unclear why thinking about this issue will help us in thinking about, for example, the role of neutrality in the liberal state. Some analogies have been drawn – the legislative branch is like a higher-order reflective check on the will of the people – but there does not seem to be a pay-off for political philosophy in this part of the non-political autonomy literature.

Another feature of the recent discussion has been the proliferation of conceptions of autonomy. In 1988, I had already noted that the term was being used so broadly that the only common features were that it was something good and had some relation to being independent. By now it seems that even these two features have fallen by the wayside: the former via various attacks on autonomy by communitarians and feminists; the latter because of tendencies to assimilate autonomy to things such as rationality and morality. By way of illustration, consider a recent treatment by Jeremy Waldron (Waldron, 2005). As his title, 'Moral Autonomy and Personal Autonomy', indicates, this is a discussion of the differences, and similarities, of two specifications of autonomy

– personal and moral. The former is supposed to be a general feature of the way persons can lead their life and it has no particular ties to the kinds of relationships to others which characterize morality. The latter is specifically concerned with that specific way in which persons lead their lives that seeks to harmonize the personal ends of the agent with the personal ends of other agents. Of course, there could be contingent connections between the two. It would be unusual for someone who went to pains to ensure that his moral views were 'his own' not to ensure that his views of his good were 'his own'. But it remains a possibility that an autonomous agent could be either an amoral or an immoral person.

Waldron's theme is that this sharp distinction may be neither available nor desirable. In particular theorists such as Rawls, who emphasize the priority of the right over the good – which means, roughly, that individuals with a sense of justice will constrain their pursuit of their own good by reference to principles of justice – will have to blur the lines between moral and personal autonomy. So, personal autonomy will have to include certain moral demands. But, if the person is morally autonomous, then he will decide for himself which demands these are, which makes the right look more individual and relative in character than the theorist might want.

I have no particular objection to this general line of argument but what emerges in the course of the discussion is a proliferation of conceptions of autonomy. There is a Kantian notion of autonomy as the supreme principle of morality and a possible Kantian notion of autonomy as freedom. There is autonomy as the use of practical reason in the pursuit of happiness. There is autonomy as an ideal that the state ought to foster. There is Rawlsian autonomy (in the *Theory of Justice*), which is the ability of a person to limit his pursuit of the good to the right. There is Rawlsian rational autonomy (in *Political Liberalism*), which is a power to revise and pursue a conception of the good. There is Razian autonomy, which is an attempt to engage with the good which seems to have as an implication that the exercise of personal morality already involves the exercise of a particular moral autonomy. There is personal autonomy as being responsive to one's conscience. And finally, there is the possibility of an intermediate position between personal and moral autonomy.

This is one author's line-up. If one looks at the authors in a recent anthology on autonomy (Christman and Anderson, 2005), one will find different line-ups. May one propose that this is suggestive of a degenerating, rather than advancing, research programme? It also suggests that a specific conception of autonomy, developed with respect to a specific and narrow issue, is more likely to be fruitful than a general-purpose conception designed to handle general and broad issues.

References

Christman, J. and Anderson, J., eds: *Autonomy and the Challenges to Liberalism: New Essays* (Cambridge: Cambridge University Press, 2005).

Dworkin, G.: *The Theory and Practice of Autonomy* (Cambridge: Cambridge University Press, 1988).

Dworkin, R.: 'Foundations of liberal equality', in *Tanner Lectures on Human Values* (Salt Lake City: University of Utah Press, 1991).

Hurley, S.: *Natural Reasons* (Oxford: Oxford University Press, 1989).
Kymlicka, W.: *Contemporary Political Philosophy* (Oxford: Clarendon Press, 1990).
Rawls, J.: *A Theory of Justice* (Cambridge, Mass.: Harvard University Press, 1971).
—: 'Kantian constructivism in moral theory', *Journal of Philosophy*, 77 (1980), 515–72.
—: 'The priority of right and ideas of the good', *Philosophy and Public Affairs*, 17 (1988), 251–76.
—: *Political Liberalism* (New York: Columbia University Press, 1993).
Raz, J.: *The Morality of Freedom* (Oxford: Oxford University Press, 1986).
Scanlon, T.: 'Freedom of expression and categories of expression', in *Pornography and Censorship* (Buffalo, NY: Prometheus Press, 1983).
Sher, G.: *Beyond Neutrality: Perfectionism and Politics* (Cambridge: Cambridge University Press, 1997).
Waldron, J.: 'Moral autonomy and personal autonomy', in *Autonomy and the Challenges to Liberalism: New Essays,* ed. J. Christman and J. Anderson (Cambridge: Cambridge University Press, 2005).
Wolff, R. P.: *In Defense of Anarchism* (New York: Harper and Row, 1970).

Further reading

Dworkin, R.: 'Liberal community', *California Law Review*, 77 (1989), 479–504.
Feinberg, J.: *Harmless Wrongdoing* (Oxford: Oxford University Press, 1988).
Haworth, L.: *Autonomy: An Essay in Philosophical Psychology and Ethics* (New Haven, Conn.: Yale University Press, 1986).
Mason, A.: 'Autonomy, liberalism and state neutrality', *Philosophical Quarterly*, 40, (1991), 433–52.
Rawls, J.: 'Justice as fairness: political not metaphysical', *Philosophy and Public Affairs*, 14 (1985), 223–51.
Scanlon, T.: 'The significance of choice', in *The Tanner Lectures on Human Values* (Salt Lake City: University of Utah Press, 1988).
Waldron, J.: 'Autonomy and perfectionism in Raz's morality of freedom', *Southern California Law Review*, 62 (1989),1097–152.
Young, R.: *Personal Autonomy: Beyond Negative and Positive Liberty* (London: Croom Helm, 1986).

Chapter 19

Civil Society

RAINER FORST

Civil Society: Concept and Conceptions

The concept of civil society, generally speaking, refers to a collective of free citizens who organize their common life in an autonomous and co-operative way. To understand the different meanings and historical dynamic of the concept, three conceptions of it need to be distinguished, the oldest of which long pre-dates the development of modern notions of 'state' and 'society'. The Aristotelian idea of *koinonia politike* – translated into Latin as *societas civilis* – refers to a political community of free and equal, virtuous citizens, bound together by a willingness to advance their common interest by means of political self-rule in order to protect their liberty against both despotism and anarchy. Despite its historical distance from the two other, modern conceptions, this original one still poses a crucial question for any contemporary notion of civil society: what are the social understandings, forms of life and modes of action necessary for the establishment and preservation of political institutions that enable civic co-operation and political autonomy?

The second conception is found most notably in the works of Adam Smith, as well as in the notions of *bürgerliche Gesellschaft* coined by Hegel and Marx. This conception reflects the differentiation and independence of the spheres of 'society', 'economy' and 'state' in modern society, yet it preserves the question of civic unity. Civil society thus understood refers to a realm for the pursuit of individual interests separate from the state, a realm of autonomous action and social integration that is mainly centred on the institution of the market. What the ancients saw as the non-public realm of necessity and unfreedom here becomes the sphere of individual freedom, enterprise and social co-ordination.

The third conception, which arose in response to the second one, questions whether an individualist orientation of action would suffice to (re)produce the public and civic spirit of political self-rule. Thinkers like Montesquieu, Ferguson and de Tocqueville saw civil society as a sphere of autonomously created associations as well as intermediate institutions in which civic interests were formed and self-government was learned and exercised. Civil society is a public realm of action between the state, the economy and the private sphere – a sphere of 'civil' life less alienated than in the other realms and a bulwark against despotism. This is the conception most relevant to contemporary discussions of the transition from dictatorship to democratic forms of life, in debates about

the participatory potentials of modern societies, and in discourses about 'taming' global economic and political power by means of a 'global civil society'. Again, the old question of the *koinon* – of social unity, freedom and the common good – proves to be the central question of civil society within the triangle of society, economy and state. As with all other important terms in political philosophy, the concept of civil society is used in both descriptive and normative ways, with an emphasis on the latter.

Civil Society in History

A brief look at the genealogy of the conceptions just mentioned reveals their relevance for current political-philosophical discourse (cf. Riedel, 1975; Cohen and Arato, 1992, ch. 2; Taylor, 1995; Ehrenberg, 1999). In his *Politics*, Aristotle's view of the community of citizens is both political and ethical. Unlike the household (*oikos*), the *polis* is not a natural unity devoted to the reproduction of life; rather, it refers to an institutionalized collective of free and equal citizens with the purpose of furthering the good life. The civic virtue of 'governing well and being well-governed' is ethically most important: the citizens see the political community as a good in itself. For Cicero, the *societas civilis* constitutes the commonwealth – the *res publica* – which preserves the liberty and dignity of its members and which alone can lead them to a 'civilized', non-despotic and non-barbaric form of life.

With the fall of the Roman Empire and the rise of Christianity, the citizen became a member of two worlds apart, the *civitas terrena* and the *civitas dei* (Augustine). The state was no longer an ethical entity, but a reflection on man's fallen nature. The church claimed power as a universal institution that was independent of and superior to political authority, and the latter was divided between the monarch, the estates and local authorities. The separation, combination and rivalry between these forces contributed to a complex view of the 'social' as a realm that was not primarily constituted by political power.

As the conflicts between the secular and the religious powers gave rise to a sense of political crisis in the late Middle Ages, thinkers like Dante and especially Marsilius of Padua argued for an independent political authority that could alone secure peace and the common good. Civil society was seen as the home of the temporal good life, and the church became an element of that society. Ideas for a further autonomization of secular political power were developed by Machiavelli and in the new teachings on political sovereignty after the Reformation, in light of the highly influential doctrine of Luther about the relation between secular and religious power. In this regard, the writings of Jean Bodin and later Thomas Hobbes are most important. As political power came to be monopolized under the new institution of the sovereign state, the various churches (now in plural form) came to be defined as institutions of civil society though still not fully disconnected from the state, and the former estates found themselves relegated to the 'social' realm. Finally, the rise of a sphere of economic activity and of new modes of production and distribution, centred around the market, established forms of social life, co-ordination and conflict separate from the state; at the same time, a re-evaluation of familial, 'private' life took place. With the achievement of the modern state, then, 'society' in its religious, economic and cultural dimensions was created.

It was in rivalry with claims of absolute sovereignty that this new realm of society came to be seen as a pre-politically established sphere of social life, whose members had certain 'natural' rights that no sovereign could overrule. In its most radical form, this meant that any form of political power had to be constituted on the basis of contractual social consent. The purpose of the state was to protect the individual rights and social achievements of a civil society marked primarily by institutions of faith and economic activity. Although John Locke (1980, ch. 7) still used the term 'civil society' interchangeably with 'political society', his thought is paradigmatic for this new constellation. Civil society is a 'civilized' form of political order that stands in contrast to the barbarous freedom of the 'state of nature', but it is also a society that preserves the social life and 'property' of its members against despotic attempts to usurp social power. As Locke stresses in his *Letter Concerning Toleration* (1689), society is not just a realm for the peaceful and law-governed pursuit of private economic interests; it is also the realm of a plurality of churches and opinions that the state should only regulate for the purpose of 'civil interests'.

From Locke onward, the discourse of civil society splits off into the two modern conceptions mentioned above. One strand leads from Locke's conception of society as an autonomous realm of economic and civil co-operation to the theory of social integration through individual economic activity developed by Adam Smith in his work on *The Wealth of Nations* ([1776] 1993). Smith inverted the traditional idea of 'civility' as consisting of public-spirited individual virtues by pointing out that, in a post-mercantilistic, market-guided society with a proper division of labour, self-interested economic activity would lead to social co-operation and increased social wealth, as if guided by an 'invisible hand' (Smith, 1993, p. 292). He thereby answered the question of social integration in a new way, stressing the autonomy of the economic sphere and the productivity of self-interest (in a more romantic version, this idea can be found in Humboldt's work on the limits of state action from 1792, [see 1969]). Smith thus coined the liberal-economic meaning of 'civil society' that would later figure prominently in Hegel and Marx, who used the term to designate a 'bourgeois' rather than a 'civic' understanding of society.

Smith's position stood opposed to the conception of civil society of another representative of the Scottish Enlightenment. In his *Essay on the History of Civil Society* (1767) Adam Ferguson argued that a civil society – by which he meant a civilized society of citizens – could not flourish if an interest in commerce and wealth supplanted individual virtue and 'public spirit' (Ferguson, [1767] 2001, p. 140). For Ferguson, society was the ethical-cultural realm where the fate of a political community was decided, where the necessary virtues for the preservation of liberty had to be developed. This was also the view Montesquieu had laid out in *The Spirit of the Laws* ([1748] 1989). He saw civil society as the sphere of mediation between political authority and the citizens generally; against a centralistic or absolutist form of government a plurality of intermediary forces (*pouvoirs intermédiaires*) existed, from the estates to churches and lower political bodies (book II, ch. 4).

This notion of social forces that preserve public freedom came under attack from Enlightenment republican theories like those of Rousseau, Kant and Fichte: the 'corporatism' of the old regime had to be rejected in favour of a general society of free and equal *citoyens* under the rule of law. In these conceptions of society and citizenship, a

new component of the social emerged: the civic public sphere as, in Kant's words, the sphere of the 'public use of reason', the sphere of the exchange of opinions and arguments and of free discussion (cf. Habermas, 1989). 'Public opinion' appears as an independent social force in modern society.

The theories of civil society developed by Hegel and de Tocqueville are most influential in contemporary discussions. Hegel attempted a reconciliation of all three conceptions of civil society, but his most important contribution was the conceptual distinction between the state and *bürgerliche Gesellschaft*, the latter of which he identified with the Locke–Smithian tradition of thought – which Hegel ultimately sought to overcome. In his reconstruction of the proper legal, social and political forms of realizing individual freedom, Hegel considered abstract right and individual morality to be combined and elevated in what he called 'ethical life' (*Sittlichkeit*), which falls into three parts: the family, civil society and the state. While the family is a natural unit, civil society is a sphere of 'bifurcation' (1967, § 33), i.e., of the pursuit of particular individual and collective interests. The state, meanwhile, is the higher institutional order that not only overcomes but also preserves the other two orders. Civil society is a sphere of co-operation as well as of 'atomization': it is a 'system of needs' which leads to economically functional forms of social integration, as in Smith's model, mediated by an order of estates; it is also legally structured and thus contains a moment of 'generality' beyond mere individuality; finally, it is a sphere of public interest with respect to (limited) social policies, as well as of social (professional) corporations that function as intermediary institutions linked to the state. Civil society therefore has an integrating force, but it is only within the state that a substantive political unity is formed. In contrast, Marx viewed civil society merely as bourgeois capitalist society, a sphere of relations of economic exchange, class exploitation and alienation, in which no true form of commonality could develop.

In his *Democracy in America* (1835/40), Alexis de Tocqueville also considered modern, post-feudal and democratically organized society to be in danger of individualization and disintegration, so that it could turn into a mild form of centralized despotism in the form of a 'tyranny of the majority'. But unlike Hegel, he did not think that a differentiated, all-encompassing state was the solution to these problems. Rather, he found that the American republic, which he considered to be extremely lucky in not having to overcome a feudal social order, had found other ways to stabilize democratic, republican life. As a compensation for Montesquieu's intermediary forces of the estates, especially the aristocracy, the American states had established a tradition of local self-government and, more than that, of socially autonomous associations that formed around issues of communal life. The citizens themselves took care of matters of common concern and did not rely on a powerful state to do so. Tocqueville saw the basis of this partly in the laws of that society but more so in its *mores*, certain 'habits of the heart' (Tocqueville, 2003, p. 336). These habits led to what he called 'self-interest properly understood' (ibid., p. 609): they combined religious motives and a sense of communal liberty and responsibility with the pursuit of economic self-interest. Hence for Tocqueville the third conception of civil society – a realm of communal self-organization and public debate – was decisive in compensating for the one-sidedness of the second conception, which portrayed civil society as the arena of competing material interests.

Civil Society and Democratic Theory

Tocqueville's approach is the best starting point for a discussion of the relevance of the concept of civil society for contemporary democratic theory, even though the historical survey cannot stop here. But conceptual innovations in the twentieth century, like those by Antonio Gramsci and Hannah Arendt, are best situated in the context of modern discussions of the complex relation between civil society and social–political power. For Gramsci, writing in the time after the Russian Revolution and during the rise of European fascism, Marxist theory was in need of a revised conception of civil society if it wanted to understand the social forces that shielded Western capitalist societies from a communist revolution. For him, civil society is not just an ensemble of institutions like the church, parties, the press and other intermediate organizations; rather, it is a discursive field for the production of 'organic' ideological forces that establish a cultural hegemony. Thus it is the real terrain of cultural–political struggles to establish forms of 'counter-hegemony' (Gramsci, 2000, chs 6 and 7). Civil society, for Gramsci, is the field of the generation of social power.

This view is to some extent shared by Arendt, even though she sharply distinguishes between the 'social' and the 'political', with the former referring to a realm of economic and personal life, and the latter to the public realm proper, where there can be real freedom and common action beyond the dictates of necessity. In her neo-Tocquevillian analysis of totalitarianism (and revolution), she argued that the rise of totalitarian movements was made possible by the development of an undifferentiated and atomized 'mass society' in which political indifference and ideology had led to a demise of the public realm where words could be freely exchanged – and upon which the 'common sense' of reality depended (Arendt, 1979, pt 3). Only if the political space for free communication could be regained, she argued, could there be authentic political freedom and mutual exchange. This was the precondition for the generation of political power by 'acting in concert' in a spontaneous way (Arendt, 1973, ch. 6).

Arendt's theory had a strong influence on post-totalitarian theories of democracy. Claude Lefort's conception of the 'empty space of power' in a democratic polity surrounded by a pluralistic and conflictual civil society is a case in point (cf. Lefort, 2000). In their opposition against the communist regimes in the 1980s, Eastern European dissidents like Adam Michnik and Václav Havel used the term 'civil society' in opposition to the 'state' to signify a realm of social self-organization and cultural and political freedom, and they built their struggles on institutions and organizations such as churches and unions, as well as a number of spontaneous and independent associations (cf. Arato, 2000, ch. 2). Similar developments took place in countries of Latin America.

The importance of the third conception of civil society – understood as the realm of social action that generates sufficient power to resist or influence institutions of government – was not restricted to these contexts. In Western liberal societies, 'new social movements' focusing on issues of ecology, peace, gender or cultural equality and recognition were seen as providing an important democratic potential. According to the *Theory of Communicative Action* developed by Jürgen Habermas (1984/87), these

movements aimed at the defence of the communicatively structured 'lifeworld' against political or economic 'systemic' power by means of 'communicative power' generated discursively in the public sphere.

Aiming at a synthesis of the above-mentioned theoretical and political developments, Jean Cohen and Andrew Arato put forth a comprehensive theory of civil society, which they defined as:

> a societal realm different from the state and the economy and having the following components: (1) *Plurality*: families, informal groups, and voluntary associations whose plurality and autonomy allow for a variety of forms of life; (2) *Publicity*: institutions of culture and communication; (3) *Privacy*: a domain of individual self-development and moral choice; and (4) *Legality*: structures of general laws and basic rights needed to demarcate plurality, privacy, and publicity from at least the state and, tendentially, the economy (Cohen and Arato, 1992, p. 346)

Civil society thus has institutional conditions and implications, yet it is to be distinguished from both 'economic society' (companies and co-operatives) and 'political society' (parties and parliaments), and the political role of civil society is limited to the generation of 'influence' in democratic associations and the public sphere (ibid., pp. ix–x). The 'self-limiting utopia of radical democracy' (ibid., p. 451) to which this gives rise is one which pays tribute to the differentiation of society and which aims at rationally justifiable forms of social life and political participation.

Habermas assigns a special role to civil society thus understood in his theory of 'deliberative democracy'. He employs a distinction between the centre and the periphery of the political system, and locates the associative structures of civil society in the latter. This is where discursive power is constituted by way of public argumentation and the formation of opinions, which acquire the strength to challenge institutionalized forms of decision making and to counter reified forms of socio-economic and administrative power (Habermas, 1996, ch. 8). Civil society first and foremost enables *critique* or (in Kant's words) the 'public use of reason' and thereby also takes on the function of challenging what Gramsci would call hegemonic forms of social discourse. Civil society, then, is the sphere of conflict and co-operation, of identifying common – and divergent – concerns and interests.

Aspects of Civil Society

Based on the different accounts of civil society discussed so far, the following aspects of the concept can be identified.

(1) Civil society has a number of important *cultural* aspects. It presupposes a plurality of life-forms and social interests which can be (at least partially) integrated but which also come into conflict. There has to be a common lifeworld for civil society to exist, but it will also be heterogeneous and contain a number of particular communities. From a neo-Gramscian perspective, social conflicts are what constitute civil society as a sphere of (contested) cultural hegemony; thus any form of integration will at the same time produce its own exclusions and particularities. Generally, accounts of civil

society differ with regard to the cultural homogeneity or heterogeneity to be assumed, especially if one considers the context of civil society to be a 'nation'.

(2) Many accounts of civil society stress its *moral* aspects. From a neo-Tocquevillian perspective, civil society is the sphere for building 'social capital' in the form of relations of co-operation, trust and social engagement (Putnam, 2000). For Robert Bellah et al. (1985), it is the realm of the cultivation of certain individual 'habits of the heart' that point to the essentially communal nature of modern identities, even if everyday self-descriptions do not fit this reality. In such communitarian perspectives, civil society is the place of experiences of commonality and of the development of a sense of community and responsibility; in a republican view, even of social and political virtues. Theories of civil society differ, however, with regard to the normative demands of 'civility' and of the transcendence of self-interest.

(3) A number of theories, particularly since Arendt, stress the *epistemic* aspects of civil society. Such approaches view a sphere of free and open communication as the precondition for an exchange of perspectives and opinions; it is not just a 'common sense' that results from this but also the potential for common deliberation and critique. This feeds into the political and critical aspects of civil society and its contribution to political opinion- and will-formation but it is not limited to that, for a society may benefit in many ways from open discussion and contestation.

(4) The *organizational* aspects of civil society are of special importance. Yet it is a matter of dispute as to what forms of institutions apart from spontaneous associations can be seen as belonging to it. Besides churches and clubs, unions and interest groups – and to some extent parties – are candidates for inclusion in a definition of civil society, as are economic actors, although their inclusion may put the sharp distinction between 'civil', 'economic' and 'political' society into doubt.

(5) The *economic* aspects of civil society are emphasized by those who use the term according to the second conception in the Locke–Smithian tradition. In this tradition, one finds libertarian ideals of civil society, which see less state regulation in the economy generally as a benefit to civic autonomy as well as to public service. There are, however, ideas of autonomous social self-organization that cannot properly be identified with the market or the state, which nonetheless have important implications with respect to the so-called 'third' or 'non-profit' sector of modern economies.

(6) This leads to the aspect of *power*, as well as to that of (in)equality. In critical theories of democracy, one of the main tasks of civil society is the generation of 'communicative' power sufficient to influence institutions of decision making, as analysed by Habermas. Yet in a society marked by socio-economic differentiation and material inequality, the resources for such practices of power will be unequally distributed, and those groups most advantaged with regard to economic resources often wield the most power in civil society. There is thus a relation between social and real capital, and such considerations raise the question of redistributive state intervention (Walzer, 2002). Moreover, there is the issue of what has been called 'bad civil society' (Chambers and Kopstein, 2001), i.e., the influence of racist or anti-democratic groups who might be successful in generating social support (especially at local levels). Ideally, civil society is a realm of inclusion; in reality, it is also a site of exclusion (cf. Chandhoke, 2003).

(7) Crucial for any understanding of civil society is its *political* aspect. In what way are the associations and organizations of civil society – and the discourses within the

public sphere – connected to the political system, and what possibilities for effective participation in decision-making processes do they have? Can civil society be at least partly combined with 'political society', for example, by way of relations to parties (such as the German Green Party)? Theories of civil society differ as to whether actions and discourses in that realm remain for the most part external to the system of government or whether they can be part of it.

(8) *Legal* aspects involve the question of the extent to which the existence of civil society is dependent upon legal protection by basic rights, such as those of communication and privacy (stressed by Cohen and Arato, 1992, p. 455), or social rights. In addition, problems of power asymmetries raise further questions about the need for legal regulation in the realm of civic action and self-organization.

(9) Finally, there are *personal* aspects of civil society. If membership in civil society implies being part of a differentiated society, and if this entails seeing oneself as a member of a plurality of normative and social contexts, then the idea of civil society requires a complex view of the nature of the self (cf. Forst, 2002). For such a 'civil' person needs to have a multidimensional view of his or her own interests and responsibilities as well as of those of others like him or her, and of society generally. Again we see that the question of civil society is essentially the question of citizenship.

This list of aspects shows the many ambivalences of the term 'civil society', whose meaning can range from a libertarian utopia of social self-organization apart from the state to radical–democratic ideas of regaining political power through civic participation and influence. Civil society, we might say, in one sense is the forum of political debates; in another sense, the term is also a rhetorical means used within them.

Global Civil Society

The much-discussed notion of 'global civil society' raises two main questions. First, given that all three conceptions discussed so far have been developed in Western contexts, it is not clear whether they can be used to understand and evaluate non-Western societies. Yet this is increasingly what is done when, for example, international aid for a state is made dependent upon its support of structures of 'civil society'. The theoretical (and practical) task in this regard is to analyse the differences and similarities of social and political structures in a historically and culturally situated perspective (Kaviraj and Khilnani, 2001). It is evident, however, that globalizing economic, political and cultural developments, as well as normative discourse, have a strong unifying force in this regard.

The second question is how the notion of civil society can be 'transnationalized' at all, since it was generally assumed that its cultural, economic and political context was that of a nation-state, with one (more or less homogeneous) citizenry, public sphere and language. If civil society is to play a mediating and critical role between society, economy and state in a national frame, what is the context for a 'global' civil society? With respect to this crucial question, a rivalry between the second and the third conception of civil society again is at work, though now in a more direct sense: organizations of civil society most often try to counter power generated within the global economic sphere, and even though there is no global state, they use international and

supranational institutions for their purposes (while also occasionally regarding them as objects of their critique). In that light, many see the politics of civil society as an avant-garde form of politics in lieu of more powerful global political structures, with mixed evaluations (cf. Baker and Chandler, 2005).

To understand the politics of global civil society, a differentiated view of the multiplicity of actors in that sphere is required, and one also needs to keep in mind that there is a difference between organizational modes of global action and the pursuit of truly global interests. An actor capable of mobilizing international moral and financial support may be devoted to a very local purpose, such as the situation of a cultural minority in a specific region. But more typically such actors pursue truly global causes, such as ecological ones. The most important and paradigmatic actors in global civil society are international non-governmental organizations (INGOs), ranging from well-known and large ones like Greenpeace, Amnesty International, the Red Cross or Oxfam to smaller and more specialized ones; their marks are that they are committed to a cause that appeals to a broader audience and that they are organized in a transnational way that enables them both to act locally and appeal to wide publics effectively. Unlike in the classical model of civil society, there is a much greater plurality of actors and interests in this sphere, from human rights organizations to ecological movements, cultural groups, unions, churches, etc. They have a truly – and in a much more dispersed sense than traditionally seen – 'intermediate' function, for they establish relations (of critique or solidarity) between individual persons and particular groups, regions, public and private institutions, states, transnational actors and supranational organizations (especially the UN), and national and transnational publics. This kind of politics is problem-oriented and issue-focused, even though there is the possibility of overarching coalitions and large-scale structural aims, such as in the World Social Forum and in groups like Attac. The number of active INGOs is constantly rising, and the roles of some are increasingly shifting from that of public critics and mediators to that of effective political agents. For example, two-thirds of the relief aid from the European Union is channelled through INGOs acting in this new capacity (Keane, 2003, p. 4).

The increase of power of INGOs has raised a number of critical questions. First, as regards the democratic potential of these organizations, the issue of representation is unsolved: who speaks legitimately for whom in this sphere? Second, with respect to the independence of such actors from economic and political power structures, there is the danger of being co-opted by powerful interests or at least of co-operating with them without adequate authority. Again, the issue of the unequal distribution of power resources and the issue of hegemony appear. Third, especially in weak or 'failed' states INGOs fulfil important public purposes and compensate for the lack of efficient public structures, thus possibly contributing to the erosion or weakness of the state (Chandhoke, 2003). On the other hand, many successful examples can be cited for effective transnational mobilization, such as the campaign against land mines or that for the establishment of the International Criminal Court (Kaldor, 2003). Thus, generally speaking, global civil society is a complex combination of the workings of moral, social, political and economic power, unequally distributed, and it remains to be seen which institutional structures can develop to establish new forms of the exercise of legitimate political power on that basis. Undoubtedly, however, the unfolding reality of global civil

society in all of these dimensions will be the ground for any establishment of effective transnational political institutions.

Of special importance in this connection is the access of civil society actors to a general public realm, a transnational public sphere (Fraser, 2005). The new medium of the internet especially has greatly improved the capacities of non-state actors to organize themselves and to distribute information; but a transnational equivalent of civil society in a national frame would require the establishment of not just media of public exchange but also a common language of norms, aims and practices. The question of commonality, of the *koinon*, again appears as the first question of civil society, but in this context its development is not aided by the existence of bounded political structures – which calls for an autonomous and reflexive self-construction of a society of world citizens.

References

Arato, A.: *Civil Society, Constitution, and Legitimacy* (Lanham, Md.: Rowman & Littlefield, 2000).

Arendt, H.: *On Revolution* (Harmondsworth: Penguin, 1973).

— : *The Origins of Totalitarianism* (San Diego, Calif.: Harvest/HBJ, 1979).

Baker, G. and Chandler, D.: *Global Civil Society: Contested Futures* (London: Routledge, 2005).

Bellah, R. et al.: *Habits of the Heart* (New York: Harper & Row, 1985).

Chambers, S. and Kopstein, J.: 'Bad civil society', *Political Theory*, 29 (2001), 837–65.

Chandhoke, N.: *The Conceits of Civil Society* (Oxford: Oxford University Press, 2003).

Cohen, J. and Arato, A.: *Civil Society and Political Theory* (Cambridge, Mass.: MIT Press, 1992).

Ehrenberg, J.: *Civil Society: The Critical History of an Idea* (New York: New York University Press, 1999).

Ferguson, A.: *An Essay on the History of Civil Society*, ed. F. Oz-Salzberger (Cambridge: Cambridge University Press, 2001).

Forst, R.: *Contexts of Justice* (Los Angeles/Berkeley: University of California Press, 2002).

Fraser, N.: 'Transnationalizing the public sphere', *Globalizing Critical Theory*, ed. M. Pensky (Lanham, Md.: Rowman & Littlefield, 2005).

Gramsci, A.: *The Gramsci Reader*, ed. D. Forgacs (New York: New York University Press, 2000).

Habermas, J.: *The Theory of Communicative Action*, 2 vols (Boston, Mass.: Beacon Press, 1984 and 1987).

—: *The Structural Transformation of the Public Sphere* (Cambridge, Mass.: MIT Press, 1989).

—: *Between Facts and Norms* (Cambridge, Mass.: MIT Press, 1996).

Hegel, G. W. F.: *The Philosophy of Right* (Oxford: Oxford University Press, 1967).

Humboldt, W. v.: *The Limits of State Action* (Cambridge: Cambridge University Press, 1969).

Kaldor, M.: *Global Civil Society: An Answer to War* (Cambridge: Polity Press, 2003).

Kaviraj, S. and Khilnani, S.: *Civil Society: History and Possibilities* (Cambridge: Cambridge University Press, 2001).

Keane, J.: *Global Civil Society?* (Cambridge: Cambridge University Press, 2003).

Lefort, C.: *Democracy and Political Theory* (Cambridge: Polity Press, 2000).

Locke, J.: *Second Treatise of Government*, ed. C. B. Macpherson (Indianapolis, Ind.: Hackett, 1980).

Montesquieu, de, C.: *The Spirit of the Laws*, ed. A. M. Cohler, B. C. Miller and H. S. Stone (Cambridge: Cambridge University Press, 1989).

Putnam, R.: *Bowling Alone* (New York: Simon and Schuster, 2000).
Riedel, M.: 'Gesellschaft, bürgerliche', in *Geschichtliche Grundbegriffe*, ed. O. Brunner, W. Conze and R. Koselleck, vol. 2 (Stuttgart: Klett, 1975).
Smith, A.: *An Inquiry into the Nature and Causes of the Wealth of Nations*, ed. K. Sutherland (Oxford: Oxford University Press, 1993).
Taylor, C.: 'Invoking civil society', in *Philosophical Arguments* (Cambridge, Mass.: Harvard University Press, 1995).
Tocqueville, de, A.: *Democracy in America* (London: Penguin, 2003).
Walzer, M.: 'Equality and civil society', in *Alternative Conceptions of Civil Society*, ed. S. Chambers and W. Kymlicka (Princeton, NJ: Princeton University Press, 2002).

Chapter 20

Community and Multiculturalism

WILL KYMLICKA

The rallying cry of the French Revolution – 'liberté, egalité, et fraternité' – lists the three basic ideals of the modern democratic age. The great ideologies of the eighteenth and nineteenth centuries – socialism, conservatism, liberalism, nationalism and republicanism – each offered its own conception of the ideals of liberty, equality and community. The ideal of community took many different forms, from class solidarity or shared citizenship to a common ethnic descent or cultural identity. But for all of these theories, and for the philosophers who helped defend them, community was one of the basic conceptual building blocks to be shaped and defined.

After the Second World War, however, community seemed to drop out of the picture. For example, John Rawls, whose book *A Theory of Justice* (1971) is largely credited with reviving the tradition of normative political philosophy in the Anglo-American world, says that his work is intended to provide an interpretation of the concepts of liberty and equality. It is not that Rawls rejects the value of community. It is rather that he paid little attention to it. Perhaps he thought that community was no longer a subject of ideological dispute, or that recent history had revealed that the ideal of community was too liable to manipulation by fascist, racist or totalitarian regimes.

Rawls is not unique in this regard. Most post-war liberal philosophers had little to say about the ideal of community. If community was discussed at all, it was often seen as derivative of liberty and equality – i.e., a society lives up to the ideal of community if its members are treated as free and equal persons. Liberal visions of politics did not include any independent principle of community, such as shared nationality, language, culture, religion, history or way of life.

In the 1980s, however, community resurfaced. An entire school of thought, known as 'communitarianism', has arisen in political philosophy whose central claim is precisely the necessity of attending to community alongside, if not prior to, liberty and equality. Communitarians believe that the value of community is not sufficiently recognized in liberal theories of justice, or in the public culture of liberal societies.

This emphasis on community can be found in Marxism as well, and is a defining feature of the communist ideal. However, the kind of communitarianism that came to prominence in the 1980s with the writings of Michael Sandel, Michael Walzer, Alasdair MacIntyre and Charles Taylor is quite different from traditional Marxism. Marxists see community as something that can only be achieved by a revolutionary change in society,

by the overthrow of capitalism and the building of a socialist society. The new communitarians, on the other hand, believe that community already exists, in the form of common social practices, cultural traditions and shared social understandings. Community does not need to be built *de novo*, but rather needs to be respected and protected. As Amy Gutmann put it, whereas the 'old' communitarians looked to Marx and his desire to remake the world, the 'new' communitarians look to Hegel, and his desire to reconcile people to their world (Gutmann, 1985).

So the new communitarians are united by the belief that political philosophy must pay more attention to the shared practices and understandings within each society. They also agree that this requires modification of traditional liberal principles of justice and rights. Beyond this, however, there are important differences amongst the new communitarians.

To oversimplify, we can distinguish between 'backward-looking' and 'forward-looking' versions of communitarianism (Phillips, 1993). The former asserts that healthy communal bonds existed in the past, lament the decline of community as a result of the increasing emphasis on individual choice and diverse ways of life (the 'permissive society'), and seek to retrieve a conception of the common good. This sort of communitarianism is difficult to distinguish from traditional conservatism, and is widely criticized for ignoring the ways that most communities historically excluded women, gays or racial and religious minorities (Frazer, 1999). 'Forward-looking' communitarians, by contrast, disavow nostalgia for the past, accept that individual choice and cultural diversity are now permanent features of modern life, and acknowledge that earlier forms of community were too narrow and exclusive to be viable today. Hence they seek to identify and strengthen emerging bonds of community that can integrate diverse groups and lifestyles, for example by strengthening forms of patriotism or democratic citizenship or civil society that encourage people from different backgrounds to work together.

In response to the communitarian critique, many liberals have attempted to show that they, too, are sensitive to the importance of community and culture, and that they can accommodate at least the 'forward-looking' dimensions of communitarianism. Hence we have witnessed a proliferation of theories of 'liberal republicanism', 'liberal patriotism', 'liberal nationalism', 'liberal multiculturalism' and 'liberal civil society'. All of these are intended to show that a liberal society is not exclusively 'individualistic', and can accommodate and support a rich array of collective identities and associations, without compromising the basic liberal commitment to the protection of individual civil and political rights.

Given these developments, the original liberal-communitarian debate of the 1980s has given way to a number of new, more differentiated, positions and issues. Instead of a stark choice between 'individualism' and 'communitarianism', we now face a range of debates about how to sustain bonds of moral solidarity and political community in an era of individual rights and cultural diversity. How to build a common national identity without suppressing ethnic and religious diversity? How to nurture feelings of trust and solidarity in mass societies where people share little in common? How to foster a vibrant public sphere that encourages civic participation and democratic dialogue? How to support family life without imposing traditional gender roles? How to educate children to be public-spirited citizens without inculcating a narrow chauvinism? Communitarianism does not provide a single perspective or framework for answering

these questions, and there is a growing sense that the 'communitarian' label obscures as much as it reveals about someone's position on them. Indeed, virtually all of the major writers associated with the original communitarian critique have expressed reservations about the label. Nonetheless, these are all questions that have been put on the agenda of political philosophy by the communitarian critique of liberalism. Communitarianism may be fading as a recognizable school of political philosophy, but communitarian concerns have come to dominate political philosophy at the start of the twenty-first century. This paper will attempt to provide a short overview of the evolution of this debate, and its significance for contemporary political philosophy.

The Communitarian Critique of Liberalism

We can distinguish three distinct, sometimes conflicting, strands in the original communitarian critique of liberalism that emerged in the 1980s. Some communitarians argued that community *replaces* the need for principles of liberal justice. Others saw justice and community as perfectly consistent, but argued that a proper appreciation of the value of community requires us to modify our conception of what justice is. These latter communitarians fall into two camps. One camp argued that community should be seen as the *source* of principles of justice (i.e., justice should be based on the shared understandings of society, not on universal and ahistorical principles); the other camp argued that community should play a greater role in the *content* of principles of justice (i.e., justice should give more weight to the common good, and less weight to individual rights). I will look at these three positions in turn.

Community and the limits of justice

Rawls claims that justice is 'the first virtue of social institutions' (1971, p. 3). Michael Sandel responds that justice is not the first virtue of social life, to be valued for its own sake, but rather is a 'remedial' virtue, remedying a flaw in social life. Drawing partly on Rawls's own account of the 'circumstances of justice', Sandel argues that justice is only needed where there is an absence of the 'more noble' virtues of benevolence or solidarity. If people responded spontaneously to the needs of others out of love or shared goals, then there would be no need to claim one's rights. Hence an increased concern with justice can, in some circumstances, reflect a worsening of the moral situation, rather than a moral improvement. Sandel suggests that the family is a social institution where justice is not needed, and where a preoccupation with justice may diminish the sense of love, and thereby lead to more conflict (1982, pp. 28–35).

Similar views about the 'limits of justice' can be found amongst some Marxists and feminists, who see the preoccupation with justice as arising from the need to 'stand up for one's due' in a world full of conflicting interests. On this view, justice helps mediate conflicts, but it also tends to create conflicts and to decrease the natural expression of sociability. Hence justice is a regrettable necessity at present, but a barrier to a higher form of community.

This view about the dichotomy between community and justice is, I believe, mistaken. Justice does not displace love or solidarity, and nothing in the idea of justice precludes

people from choosing to forego their rightful claims in order to help others. Justice simply ensures that these decisions are genuinely voluntary, and that no one can force others to accept a subordinate position. Justice enables loving relationships, but ensures that they are not corrupted by domination or subordination.

Justice and shared meanings

Many communitarians agree with Rawls about the importance of justice. However, they claim that liberals misinterpret justice as an ahistorical and external criterion for criticizing the ways of life of every society. Utilitarians, liberal egalitarians and libertarians may disagree about the content of justice, but they all seem to think that their preferred theory provides a standard that every society should live up to. They do not see it as a decisive objection that their theory may be in conflict with local beliefs.

Indeed, this is sometimes seen by liberals as the *point* of discussing justice – it provides a standpoint for questioning our beliefs, and for ensuring that they are not merely local prejudices. As Ronald Dworkin puts it: 'In the end, political theory can make no contribution to how we govern ourselves except by struggling, against all the impulses that drag us back into our own culture, towards generality and some reflective basis for deciding which of our traditional distinctions and discriminations are genuine and which spurious.' For Dworkin, justice should be our critic, not our mirror (1985, p. 219).

Michael Walzer argues that this quest for a universal theory of justice is misguided (Walzer, 1983; 1994). There is no such thing as a perspective external to the community, no way to step outside our history and culture. The only way to identify the requirements of justice, he claims, is to see how each particular community understands the value of social goods. A society is just if it acts in accordance with the shared understandings of its members, as embodied in its characteristic practices and institutions. Hence identifying principles of justice is more a matter of cultural interpretation than of philosophical argument.

According to Walzer, the shared understandings in contemporary Western societies require 'complex equality' – i.e. a system of distribution that does not try to equalize all goods, but rather seeks to ensure that inequalities in one 'sphere' (e.g. wealth) do not permeate other spheres (e.g. healthcare, political power). However, he acknowledges that other societies do not share this understanding of justice, and for some societies (e.g. caste societies) justice may involve virtually unlimited inequality in rights and goods (Walzer, 1983).

Walzer's theory is, of course, a form of cultural relativism, and it is beyond the scope of this paper to discuss that age-old philosophical debate. However, there are two common objections to communitarian attempts to define justice in terms of a community's shared understandings. Firstly, and paradoxically, it violates one of our deepest shared understandings. According to relativism, slavery is wrong if our society disapproves of it. But that isn't how most people understand claims of justice. They put the causal arrow the other way around – i.e., we disapprove of slavery because it is wrong. Its wrongness is a reason for, not the product of, our shared understanding. Secondly, there may not be many shared understandings about justice, especially if we attend not only to the voices of the vocal and powerful, but also to the weak and marginalized. People disagree about issues such as the proper scope of markets (which Walzer wishes to severely limit). In

order to resolve these disagreements, we need to assess competing understandings in the light of a more general conception of justice. So even if we start with local understandings, as Walzer suggests, we are driven by the existence of disagreement, and our own critical reflection, towards a more general and less parochial standpoint.

Individual Rights and the Common Good

For many communitarians, the problem with liberalism is not its emphasis on justice, nor its universalism, but rather its 'individualism'. According to this criticism, liberals base their theories on notions of individual rights and personal freedom, but neglect the extent to which individual freedom and well-being is only possible within community. Once we recognize the dependence of human beings on society, then our obligations to sustain the common good of society are as weighty as our rights to individual liberty. Hence, communitarians argue, the liberal 'politics of rights' should be abandoned for a 'politics of the common good'.

This, I believe, is the most important issue raised by the new communitarians. However, we need to put it in perspective. A liberal society does restrict individual liberty, since it demands compliance with the principles of freedom and equality. A liberal state will prevent me from acting in ways that deprive you of your liberty or your fair share of resources. Moreover, a liberal state appeals to a notion of the common good as the basis for its decisions about allocating public resources (e.g. taxing people to fund healthcare or education). Hence a liberal society often restricts individual liberty to promote the 'common good'.

However, liberals believe that there is an important constraint on the way the state restricts individual liberty – namely, it cannot take a stand on the intrinsic merits of different lifestyles (or 'conceptions of the good'). A liberal state does not deprive people of their rights or resources on the grounds that their lifestyle is worthless. Nor does it reward people with greater liberty or resources on the grounds that their lifestyle has more intrinsic value. Each person's conception of the good is shown equal respect, if consistent with the principles of justice, 'not in the sense that there is an agreed public measure of intrinsic value or satisfaction with respect to which all these conceptions come out equal, but in the sense that they are not evaluated at all from a [public] standpoint' (Rawls, 1982, p. 172). This idea that the state does not rank the intrinsic merit of different conceptions of the good is often called the idea of 'state neutrality'.

Communitarians, on the other hand, conceive of the common good as a substantive conception of the good that defines the community's 'way of life'. This way of life forms the basis for a public ranking of conceptions of the good, and the weight given to an individual's preferences depends on how much she conforms or contributes to this common good. A communitarian state is not, therefore, constrained by the requirement of 'neutrality'. It encourages people to adopt conceptions of the good that conform to the community's way of life, while discouraging conceptions of the good that conflict with it.

Should we prefer this 'politics of the common good' over liberal neutrality? Liberals say that neutrality is required to respect people's autonomy. According to liberal theory, individuals should be free to decide for themselves what sort of life they will lead. In

particular, they should be free to question their participation in existing social practices, and opt out of them, should those practices seem no longer worth pursuing. Rawls summarizes this view by saying that 'the self is prior to the ends which are affirmed by it' (1971, p. 560), by which he means that we can always step back from any particular project and question whether we want to continue pursuing it. This is sometimes called the capacity for 'rational revisability'. If people no longer find the community's traditional 'way of life' satisfying, they should be free to seek out more worthwhile alternatives. For liberals, a politics of the common good would preclude or distort this process of evaluating and revising our commitments.

Communitarians object both to the liberal conception of individual autonomy, and to the way liberals connect autonomy to state neutrality. I will consider these two objections in turn.

The Embedded Self

According to Michael Sandel and Alasdair MacIntyre, the liberal picture of autonomous individuals picking and choosing their conceptions of the good is facile. They argue that Rawls exaggerates our capacity to stand back from and question our social roles, and ignores the fact that the self is 'embedded' in existing social practices. Our social roles and relationships, or at least some of them, must be taken as fixed for the purposes of deciding how to lead our lives. As Sandel puts it, the self is not prior to, but rather constituted by, its ends. Our identity is defined by certain ends that we did not 'choose' but rather 'discovered' by virtue of our being embedded in some shared social context (1982, pp. 52–5, 150; cf. MacIntyre, 1981, pp. 204–5). Deciding how to lead one's life, therefore, is not a matter of choosing one's social roles, but rather of understanding the roles we already find ourselves in. A politics of the common good, by expressing these constitutive ends, enables us to 'know a good in common that we cannot know alone' (Sandel, 1982, p. 183).

I think that communitarians exaggerate our 'embeddedness' in particular roles. It may not be easy to question deeply held beliefs about the good, but the history of the women's movement, for example, shows that people can question and reject even the most deeply entrenched sexual, economic and family roles. We are not trapped by our present attachments, incapable of judging the worth of the goals we inherited or ourselves chose earlier. It is true that we find ourselves in various relationships, often without having consciously chosen them. But we do not always like what we find. No matter how deeply implicated we are in a social practice, we feel capable of questioning whether the practice is worthwhile. The process is often difficult. But it is a defining feature of the modern world that people claim the right, and the responsibility, to decide for themselves whether their inherited roles are worthy of their allegiance.

There are some groups in society that dislike this aspect of modernity. Some strongly traditionalist ethnic or religious groups seek to insulate their children from learning about other ways of life, and discourage them from acquiring or exercising this capacity for rational revisability, so that they are indeed 'embedded' in a particular way of life. The communitarian view that one's ends in life are predetermined seems misguided for most members of modern society, but it may be plausible as an account of such traditionalist

minorities. And this raises the question of how a liberal state should deal with non-liberal minorities that do not value individual autonomy. Should it, for example, insist that the children in such communitarian groups attend schools where they will learn about other ways of life, and acquire the capacity to exercise rational revisability?

This is a difficult issue that has been a source of disagreement, not only between liberals and communitarians, but also amongst liberals themselves. Indeed, the question of how a liberal majority should deal with traditionalist ethnic and religious minorities is one of the central points of dispute between 'comprehensive' and 'political' liberals, and is often said to be the central issue for philosophical theories of 'multiculturalism'. Political liberals seek to accommodate such traditionalist groups, so long as they do not challenge the larger liberal order, and argue that it would be intolerant to insist that such groups accept the value of autonomy or rational revisability (Kukathas, 2003). Comprehensive liberals, by contrast, argue that the liberal state has a duty to regulate education in such a way as to promote the basic interests of children, including their interest in the capacity for autonomy, even if traditionalist cultures object. Many feminists share this view, in part because traditionalist cultures are often patriarchal, so that to 'embed' girls in such cultures without the capacity for autonomy is, in effect, to condemn them to a life of subordination. When Susan Okin famously asked 'Is Multiculturalism Bad for Women?' (Okin, 1999), she had such cases in mind. The desire of political liberals to accommodate traditionalist ethnic and religious communities, she feared, would mean that girls and women would be denied the autonomy needed to question and challenge their subordination.

I will return to multiculturalism below, but notice that this way of asking the question presupposes that the liberal view of the autonomous self is appropriate for the majority, and that the communitarian view of the 'embedded self' is applicable, if at all, only to smaller minority groups.

The Social Thesis

Many communitarians accept the liberal commitment to individual autonomy, but criticize liberalism for neglecting the social conditions required for the exercise of autonomy. For example, Charles Taylor claims that many liberal theories are based on 'atomism', the view that individuals are not in need of any communal context in order to develop and exercise their capacity for self-determination. Taylor argues instead for the 'social thesis', which says that autonomy can only be developed and exercised in a certain kind of social environment (Taylor, 1985).

Of course, liberals do not literally deny the social thesis. The view that we might acquire autonomy outside of society is absurd. However, Taylor believes that liberals ignore the full implications of the social thesis. The social thesis tells us that the capacity to assess one's conception of the good can only be exercised in a particular sort of community. But, Taylor argues, this sort of autonomy-supporting community can only be sustained by a politics of the common good, not by a liberal politics of state neutrality.

I will consider three versions of this claim, focusing respectively on the need to sustain a diverse culture that provides people with meaningful options; the need for shared forums in which to evaluate these options; and the need to sustain political legitimacy.

The need for cultural diversity

The freedom to choose one's way of life is only meaningful if we have options to choose from, and the social thesis tells us that these options come from our culture. Communitarians argue that liberal neutrality is incapable of ensuring the existence of a rich and diverse culture that provides such options. According to liberal theory, a state that intervenes in the cultural marketplace to encourage or discourage any particular way of life restricts people's autonomy. But what if the cultural marketplace, left on its own, eventually undermines cultural pluralism, leading to a drab and uniform mass culture? Neutrality would then be self-defeating.

This is an important objection. Many liberals are surprisingly silent about the possibility that cultural diversity could falter. As Taylor says, 'it is as though the conditions of a creative, diversifying freedom were given by nature' (1985, p. 206). One liberal response is to claim that a wide range of good ways of life will in fact sustain themselves in the cultural marketplace without state assistance, because people are able to recognize the worth of good ways of life, and will support them (this is Rawls's response). Another response is to accept that the state must actively protect cultural diversity, but to deny that this requires abandoning state neutrality. For example, the state could ensure an adequate range of options by providing tax credits to people who make culture-supporting contributions in accordance with their personal ideals. The state thereby acts to ensure that there are sufficient options, but the evaluation of these options occurs outside the state, through the choices of private individuals (this is Dworkin's response).

Taylor, on the other hand, suggests that the evaluation of conceptions of the good should be a political question, and that the state should intervene not simply to ensure an adequate range of options, but to promote particular options. The debate, therefore, is not whether an adequate range of options is required, but rather how these options should be evaluated. Communitarians argue that the preferability of different ways of life should be a matter of political advocacy and state action; liberals argue that it should be left to the cultural marketplace.

The need for shared deliberations

Some communitarians argue that the liberal preference for the cultural marketplace over the state as the appropriate arena for evaluating ways of life stems from an atomistic belief that judgements about the good are only 'autonomous' when they are made by isolated individuals who are protected from social pressure. Liberals think that autonomy is promoted when judgements about the good are taken out of the political realm. But in reality individuals require the sharing of experiences and the give and take of collective deliberation. Individual judgements about the good become a matter of subjective and arbitrary whim if they are cut off from collective deliberations. According to some people, this is precisely what has happened to most Americans as a result of the influence of liberal individualism (Bellah et al., 1985).

Communitarianism, on the other hand, adopts the view that 'men living in a community of shared experiences and language is the only context in which the individual and society can discover and test their values through the essentially political activities of discussion, criticism, example, and emulation' (Crowley, 1987, p. 282). The state is the

proper arena in which to formulate our visions of the good, because these visions require shared inquiry. They cannot be pursued, or even known, by solitary individuals.

This misconstrues the sense in which Rawls claims that the evaluation of ways of life should not be a public concern. For Rawls, shared experiences concerning the good are at the heart of the various groups or 'communities of interests' that exist in a liberal society. Freedom of association is important precisely because it enables people to enter into this 'free social union with others' (1971, p. 543). Rawls simply denies that the state is an appropriate forum for those deliberations.

Unfortunately, communitarians rarely distinguish between collective activities and political activities. It is true that participation in 'a community of shared experiences and language' is what enables individuals to make intelligent decisions about the good life. But why should such participation be organized through the state, rather than through the free association of individuals? It is true that we should 'create opportunities for men to give voice to what they have discovered about themselves and the world and to persuade others of its worth' (Crowley, 1987, p. 295). But a liberal society does create such opportunities – freedom of assembly, speech and association are fundamental liberal rights. The opportunities for shared inquiry simply occur within and between groups and associations below the level of the state – friends and family, churches, cultural associations, professional groups, trade unions, universities, the media etc.

So liberalism does not neglect the importance of a shared culture for meaningful options, or of the sharing of experiences for meaningful evaluation of those options. Liberalism recognizes these social requirements of individual autonomy, but interprets them in a way that relies on social rather than political processes. Of course, this aspect of liberal theory requires a certain faith in the operation of non-state forums for individual judgement and cultural development, and a distrust of the operation of state forums for evaluating the good. This optimism and distrust may not be warranted. Indeed, just as critics of liberalism have failed to defend their faith in state forums, so liberals have failed to defend their faith in non-state forums.

While this question remains open, we are not likely to answer it if we continue to see it as a debate between liberal 'atomism' and the communitarian 'social thesis'. Liberals and communitarians do not disagree about the need for communal practices and forums. Rather, they disagree about the need for state involvement in evaluating and protecting those practices.

The need for political legitimacy

There is another issue raised by the social thesis. Whatever the proper role of the state, it can only fulfil its functions if public institutions are stable, and that in turn requires that they have legitimacy in the eyes of the citizens. Taylor believes that political institutions governed by the principle of neutrality are incapable of sustaining legitimacy, and hence incapable of sustaining the social context required for self-determination.

According to Taylor, the neutral state undermines the sense of community that is required for citizens to accept the sacrifices demanded by the welfare state. Citizens will only identify with the state, and accept its demands as legitimate, when there is a 'common form of life' which 'is seen as a supremely important good, so that its continuance and flourishing matters to the citizen for its own sake and not just instrumentally to their

several individual goods or as the sum total of these individual goods' (Taylor, 1986, p. 215). This sense of the common good has been undermined partly because state neutrality means that people are free to choose their goals independently of this 'common form of life', and to trump the pursuit of this common good should it violate their rights. Whereas a communitarian state would foster an identification with the common form of life, the liberal model

> goes very well with a more atomist consciousness, where I understand my dignity as that of an individual bearer of rights. Indeed – and here the tension surfaces between the two – I cannot be too willing to trump the collective decision in the name of individual rights if I haven't already moved some distance from the community which makes these decisions. (Taylor, 1986, p. 211)

This 'distancing' from the community's shared form of life means we become unwilling to shoulder the burdens of liberal justice. As a result, liberal democracies are facing a 'legitimation crisis'. Citizens are asked to sacrifice more and more in the name of justice, but they share less and less with those for whom they are making sacrifices. Taylor worries that 'the increasing stress on rights as dominant over collective decisions' will eventually 'undermine the very legitimacy of the democratic order' (Taylor, 1986, p. 225).

Liberals, on the other hand, believe that citizens will accept the burdens of justice even in their relations with people who have very different conceptions of the good. Conflicting conceptions can be tolerated because the public recognition of principles of justice is sufficient to ensure stability even in the face of such conflicts. As Rawls puts it, 'although a well-ordered society is divided and pluralistic . . . public agreement on questions of political and social justice supports ties of civic friendship and secures the bonds of association' (Rawls, 1980, p. 540): people with different lifestyles will respect each other's rights, not because it promotes a shared way of life, but because they accept that each person has an equal claim to consideration. Hence the basis for state legitimacy is a shared sense of justice, not a shared conception of the good.

Taylor (1986) and Sandel (1996) argue that this is sociologically naive, and I agree. Shared political principles may be necessary for political stability, but are not sufficient. Notice, for example, that the liberal view does not tell us *to whom* we have obligations of justice. Rawls assumes that these principles of justice operate within bounded political communities – it is to our co-citizens, not humanity at large, that we have primary obligations of justice. In this sense, Rawls presupposes that nation-states form what David Miller calls 'ethical communities', where citizens have obligations to each other not owed to outsiders (Miller, 1995). Or, as Yael Tamir puts it, Rawls's liberalism embodies a 'morality of community' which assumes that citizens belong together in a single country, should govern themselves collectively, and should feel solidarity towards each other (Tamir, 1993).

But while Rawls assumes this ethic of bounded community, he provides no explanation for it. Shared political principles cannot explain it, since it is likely that the people across the border also share the same principles. Given the near-universal acceptance of liberal-democratic principles throughout the West, the sharing of political principles cannot explain why I have greater obligations to people on one side of the border than another, or even why such borders exist in the first place.

So Taylor is surely right that something more than the sharing of liberal-democratic political principles is needed to explain feelings of legitimacy and solidarity within bounded political communities. His own alternative proposal, as we've seen, is to ground solidarity on the sharing of a particular conception of the good life, reinforced by a 'politics of the common good'. However, if liberals are naive to suppose that solidarity rests on shared political principles, surely this communitarian answer is even more naive. It rests on a romanticized view of earlier societies, such as the democracies of Ancient Greece or eighteenth-century New England town governments. These societies were indeed based on a politics of the common good, and had a high degree of civic participation and loyalty. However, these historical examples ignore an important fact. If New England town governments had legitimacy amongst their members, that is at least partly because women, atheists, Indians and the propertyless were all denied membership. Had these groups been allowed membership, they would not have been impressed by the pursuit of what was often a racist and sexist 'common good'. The way in which legitimacy was ensured amongst all members was to exclude from membership those groups most likely to reject the community's ideals.

Contemporary communitarians are not advocating that legitimacy be secured by denying membership to those groups in the community who have not historically participated in shaping the 'common form of life'. As 'forward-looking' communitarians, Sandel and Taylor accept that the shared ends underlying a politics of the common good must be legitimate to all groups. But do any such shared ends really exist in diverse modern societies? Communitarians say that these shared ends can be found in our social practices, but these practices were defined historically by a small section of society – propertied white men – to serve the interests of propertied white men. Attempts to promote these kinds of ends are likely to reduce legitimacy, and further exclude marginalized groups. This is clearest in the case of 'backward-looking' conservative communitarianism (e.g. the Moral Majority in the United States, based on the Christian, patriarchal family). Many forward-looking communitarians disavow this particular view of the common good, but the problem of the exclusion of historically marginalized groups seems endemic to the communitarian project (Gutmann, 1985, pp. 318–22). It is not surprising, therefore, to find representatives of the 'new social movements' (e.g. women, people with disabilities, immigrants and visible minorities, gays and lesbians) expressing concern about the communitarian appeal to a politics of the common good (e.g. Okin, 1989, pp. 41–73; Young, 1990, pp. 227–36). While these groups have objections to liberalism, which they feel has ignored the roots of their oppression, they see communitarianism as even more threatening to their claim for recognition.

Nationalism and Multiculturalism

We seem to have reached an impasse. Contemporary welfare states require a high degree of legitimacy and solidarity, yet neither liberals nor communitarians have provided an adequate explanation for these sentiments. They can be grounded neither in shared beliefs about universal principles of justice, as liberals propose, nor in shared conceptions of the good life, as communitarians propose. The former are too widely shared across state

borders, and the latter are not shared within states. So what then supports this sense of ethical community amongst co-citizens?

This is not just a theoretical puzzle; it is a pressing practical question for many liberal democracies. And if we look at the actual practices of Western democracies, we can see the outlines of a possible answer. Western states have attempted to develop solidarity by appealing to ideologies of nationhood. Each state tries to convince its citizens that they form a 'nation', and as such belong together in a single political community, and owe each other special obligations. The people who share a state are not just co-citizens, but also co-nationals, and this underpins feelings of solidarity and the practice of collective self-government. This feeling of nationhood has been promoted by various means, including the diffusion of a common national language, as well as various national holidays and symbols, and the construction of narratives of 'national' history, literature, music and so on.

These efforts at 'nation building' have been surprisingly successful in many Western democracies. Who would have predicted that the French language, which was not widely used at the time of the Revolution, would become a defining feature of the national identity of citizens living throughout France? Or that all of the historically fractious and culturally diverse regions in Italy would come to share an ideology of Italian nationhood?

Until recently, the role of nationhood in sustaining the sense of 'ethical community' in liberal democracies has largely been ignored by political philosophers. However, in the 1990s, several theorists have attempted to develop models of 'liberal nationalism' that explore how liberalism and nationhood have co-evolved in the West (e.g., Tamir, 1993; Canovan, 1996). According to these accounts, nationhood has been able to sustain a sense of political community because it goes beyond the mere sharing of universal political principles, yet does not require citizens to share a particular conception of the good life. In this way, it is 'thicker' than Rawls's account, but 'thinner' than Taylor's, and so avoids the naivety of both.

While the historical importance of nationhood is increasingly recognized in the literature, there are also many doubts about whether it can continue to provide a viable basis for feelings of political community. In particular, it is being challenged by a range of ethnic and racial minorities who reject traditional ideologies of nationhood in favour of a more 'multicultural' conception of political community. Western states historically have attempted to diffuse a single, homogenous national identity based on some canonical account of the nation's history and culture, with its pantheon of heroes and cultural icons. These nation-building policies have typically ignored, or actively suppressed, the identities and practices of various minorities, whether they are long-standing historical minorities, such as the indigenous peoples of the Americas, or recent immigrants. Such groups faced the choice of assimilation or exclusion. Today, however, many minorities are resisting this choice, and demanding the right to participate without having to assimilate. They are seeking a model of political community that respects and accommodates ethnocultural diversity – in short, 'multiculturalism'.

One dimension of this, as we saw earlier, concerns traditionalist ethnic and religious groups who do not endorse the value of individual autonomy, and who do not wish their members to learn about other ways of life. The issue of how the mainstream liberal society should deal with such illiberal minorities has dominated the philosophical literature on multiculturalism (e.g., Parekh, 2000). But it is important to note that the challenge of

multiculturalism to liberal nationalism goes far beyond this. For even where minority groups share the same liberal-democratic values as the majority, they may still object to the model of nationhood being promoted by the state. They may share the same political values, yet speak a different language, and demand the right to use it in public institutions (e.g., the French in Canada, or Catalans in Spain). Or they may feel that they form a distinct nation within the larger state, and so demand the right to exercise regional self-government on their historic national homeland (e.g., the Scots in Britain). Or they may feel that the canonical accounts of the nation's history and culture exclude their own history, heroes, holidays, music, literature and so on, and so demand a more inclusive national narrative.

Many of these multiculturalist claims are, I believe, legitimate, and indeed are needed to ensure that nation building does not have unjust and exclusionary consequences. In the absence of multiculturalism and minority rights, nation building inevitably leads to the systematic marginalizing and stigmatizing of minorities (Kymlicka, 2001). But critics worry that a wholehearted embrace of multiculturalism will undermine any sense of nationhood, and hence erode the feeling of ethical community that sustains democratic welfare states (e.g., Barry, 2001).

Can we continue to enjoy the benefits of nationhood, while avoiding its injustices? Can we, in short, have a form of multicultural nationalism that combines unity and diversity? This is one of the most pressing unresolved issues that the communitarian critique of liberalism has bequeathed to us. The original communitarian critique proposed to replace a liberal politics of rights and autonomy with a communitarian politics of the common good and the embedded self. Put in such stark terms, the critique largely failed, and most commentators today accept that modern societies must recognize the inevitability of both social diversity and individual choice. But communitarians were surely right to say that modern polities, no matter how diverse they are, depend on feelings of bounded community. And they were also surely right to say that such feelings of community cannot simply be taken for granted, or assumed to arise spontaneously. The new literature on nationalism and multiculturalism is, in large part, an attempt to come to grips with this challenge. The resulting theories of 'liberal nationalism', 'constitutional patriotism' and 'multicultural citizenship' are not always described as 'communitarian' theories, and indeed many of these theorists explicitly disavow the communitarian label. But their theories can only be understood as an attempt to make sense of the challenge raised by communitarians.

References

Barry, B.: *Culture and Equality: An Egalitarian Critique of Multiculturalism* (Cambridge: Polity, 2001).

Bellah, R. et al.: *Habits of the Heart: Individualism and Commitment in American Life* (Berkeley, Calif.: University of California Press, 1985).

Buchanan, A.: 'Assessing the communitarian critique of liberalism', *Ethics*, 99, 4 (1989), 852–82.

Canovan, M.: *Nationhood and Political Theory* (Cheltenham: Edward Elgar, 1996).

Crowley, B.: *The Self, the Individual and the Community* (Oxford: Oxford University Press, 1987).

Dworkin, R.: *A Matter of Principle* (London: Harvard University Press, 1985).
Frazer, E.: *The Problems of Communitarian Politics: Unity and Conflict* (Oxford: Oxford University Press, 1999).
Gutmann, A.: ‘Communitarian critics of liberalism’, *Philosophy and Public Affairs*, 14, 3 (1985), 308–22.
Kukathas, C.: *The Liberal Archipelago: A Theory of Diversity and Freedom* (Oxford: Oxford University Press, 2003).
Kymlicka, W.: *Politics in the Vernacular: Nationalism, Multiculturalism, Citizenship* (Oxford: Oxford University Press, 2001).
MacIntyre, A.: *After Virtue: A Study in Moral Theory* (London: Duckworth, 1981).
Miller, D.: *On Nationality* (Oxford: Oxford University Press, 1995).
Okin, S.: *Justice, Gender and the Family* (New York: Basic Books, 1989).
—: *Is Multiculturalism Bad For Women?* (Princeton, NJ: Princeton University Press, 1999).
Parekh, B.: *Rethinking Multiculturalism: Cultural Diversity and Political Theory* (Cambridge, Mass.: Harvard University Press, 2000).
Phillips, D.: *Looking Backward: A Critical Appraisal of Communitarian Thought* (Princeton, NJ: Princeton University Press, 1993).
Rawls, J.: *A Theory of Justice* (London: Oxford University Press, 1971).
—: ‘Kantian constructivism in moral theory’, *Journal of Philosophy*, 77, 9 (1980), 515–72.
—: ‘Social unity and primary goods’, in *Utilitarianism and Beyond*, ed. A. Sen and B. Williams (Cambridge: Cambridge University Press, 1982).
Sandel, M.: *Liberalism and the Limits of Justice* (Cambridge: Cambridge University Press, 1982).
—: *Democracy’s Discontent* (Cambridge, Mass.: Harvard University Press, 1996).
Tamir, Y.: *Liberal Nationalism* (Princeton, NJ: Princeton University Press, 1993).
Taylor, C.: *Philosophy and the Human Sciences* (Cambridge: Cambridge University Press, 1985).
—: ‘Alternative futures: Legitimacy, identity and alienation in late twentieth century Canada’, in *Constitutionalism, Citizenship and Society in Canada*, ed. A. Cairns and C. Williams (Toronto: University of Toronto Press, 1986).
Walzer, M.: *Spheres of Justice: A Defense of Pluralism and Equality* (Oxford: Blackwell, 1983).
—: *Thick and Thin: Moral Argument at Home and Abroad* (Cambridge, Mass.: Harvard University Press, 1994).
Young, I.: *Justice and the Politics of Difference* (Princeton, NJ: Princeton University Press, 1990).

Further reading

Avineri, S. and de-Shalit, A., eds: *Communitarianism and Individualism* (Oxford: Oxford University Press, 1992).
Bell, D. A.: *Communitarianism and Its Critics* (Oxford: Oxford University Press, 1993).
Carens, J.: *Culture, Citizenship, and Community* (Oxford: Oxford University Press, 2000).
Dworkin, R.: ‘Liberal community’, *California Law Review*, 77, 3 (1989), 479–504.
Galston, W.: ‘Community, democracy, philosophy: the political thought of Michael Walzer’, *Political Theory*, 17, 1 (1989), 119–30.
Kymlicka, W.: *Multicultural Citizenship* (Oxford: Oxford University Press, 1995).
Lehman, E., ed.: *Autonomy and Order: A Communitarian Anthology* (Lanham, Md.: Rowman and Littlefield, 2000).
MacIntyre, A.: *Whose Justice? Which Rationality?* (Notre Dame, Ind.: University of Notre Dame Press, 1988).

Mulhall, S. and Swift, A.: *Liberals and Communitarians*, 2nd edn (Oxford: Blackwell, 1996).
Taylor, C.: 'Cross purposes: the liberal-communitarian debate', in *Liberalism and the Moral Life*, ed. N. Rosenblum (Cambridge, Mass.: Harvard University Press, 1989).
Walzer, M.: 'The communitarian critique of liberalism', *Political Theory*, 18, 1 (1990), 6–23.

Chapter 21

Contract and Consent

JEAN HAMPTON

Since the ancient Greeks, philosophers have often mounted arguments for political or moral conclusions by invoking the idea of a 'social contract', either between the people and the ruler, or among the people themselves, or both. The contractarian form of argument became popular in the seventeenth century, and its popularity continues to this day. Advocates of this approach tell us to resolve answers to moral and political issues by asking what a group of rational persons could all agree to, or, alternatively, what such people would be unreasonable to reject.

However, both proponents and opponents of this style of argument have failed to appreciate just how many argumentative uses of the contract idea have appeared over the centuries. Although early uses of the argument were intended to justify and explain the state, later uses of the argument – particularly since the 1970s – have aimed to justify certain moral conceptions, especially conceptions of justice. Moreover, even though theorists who call themselves 'contractarians' have all supposedly begun from the same reflective starting point, namely, what rational people could 'agree to', the many differences and disagreements among them show that although they are supposedly in the same philosophical camp, in fact they are united not by a common philosophical theory but by a common *image.* Philosophers hate to admit it, but sometimes they work from pictures rather than ideas. In an attempt to get a handle on both the nature of a justified state and the legitimate moral claims each of us can make on our own behalf against others, the contract imagery has struck many as enormously promising. But how that image has been translated into argument has varied considerably, and philosophers have disagreed about what political or moral issue that image can most profitably illuminate.

This article will attempt to explain the promise behind the image, and clarify the different forms of argument in which that image has been used. First, I will discuss the nature and meaning of the contract device as it has been used to justify states, governments and political societies. Later I will discuss the nature and meaning of the contract device as it has been used to define and defend moral conceptions, and, particularly, conceptions of justice. And finally, I will suggest ways in which the argument has influenced the development of political societies during the last four centuries. As I do so, I will explore the extent to which this style of argument can be defended against attacks levelled against it by critics over the years.

Contracting to Create the State

Traditionally, the idea of a social contract has been used in arguments that attempt to explain and defend the state, while addressing the nature of political obligation and the kind of responsibility that rulers have to their subjects. Philosophers such as Plato, Hobbes, Locke, Rousseau and Kant have argued that human beings would find life in a pre-political 'state of nature' (a state which some of them, e.g. Hobbes, have also argued is pre-societal) so difficult that they would agree – either with one another or with a prospective ruler – to the creation of political institutions that they believe would improve their lot. But how are we to understand the terms of a social contract establishing a state? When the people agree to obey the ruler, do they surrender their own power to him, as the philosopher Thomas Hobbes ([1651] 1990) tried to argue? Or do they merely lend him that power, reserving the right to take it from him if and when they see fit, as John Locke ([1690] 1991) maintained? These questions were first debated by medieval political theorists troubled by a very contractarian passage in Justinian's *Digest* known as the *lex regia*: 'What pleases the prince has the force of law, because by the *lex regia*, which was made concerning his authority, the people confers to him and upon him all its own authority and power' (Morrall, 1971, p. 46). If, when the people 'confer' the power on their prince, they are merely loaning him their own power, rebellion against him could be condoned if he has violated the conditions attached to that loan. But if the people's grant of power is interpreted as a surrender (or alienation) of their own power, there are no such conditions, and the people could never be justified in taking back that power via revolution. Over the centuries, the Lockean answer, which I have called the 'agency' contractarian theory, has struck people as more plausible and defensible than the Hobbesian answer, which I have called the 'alienation' contractarian theory (Hampton, 1986, ch. 5).

Note that if we were to accept the agency contractarian theory, we would be implicitly claiming that the individual members of a state are conceptually prior to the states themselves, insofar as the latter are the creations of the former. Karl Marx and subsequent socialist and communitarian thinkers have argued against conceptualizing an individual's relationship to her political and social community in this way. We would also appear to be claiming that political cohesion in a society is the product of an *actual* agreement between and among individuals and their rulers, which means treating these social contracts as agreements that really took place in any political society we regard as justifiable. On this view, we have contracted for certain things with the ruler, so that the terms of the contract are what bind us to him. Moreover, if certain constraints are built into the contract, these constraints also oblige him to rule in a certain way. So on this reading of the social contract argument, it works by pointing out to us how our explicit consent binds us to political regimes, whose justification is largely a matter of our having consented to them.

But as David Hume points out, virtually none of us remembers making such a contract, or giving such consent!

> . . . were you to ask the far greatest part of the nation, whether they had ever consented to the authority of their rulers, or promised to obey them, they would be inclined to think very strangely of you, and would certainly reply, that the affair depended not on

> their consent but that they were born to such obedience. (Hume, [1739–40] 1978, III, II, viii, p. 548)

And if we have never made such a contract, and hence have never given our explicit consent to a regime, all talk of a social contract seems to be completely irrelevant to an understanding of political obligation and the justification of the state's rule over us.

Some contractarians through the centuries have confidently responded to Hume by insisting that the contract talk is entirely hypothetical: on this view, the social contract talk is not meant as an historical account of the origin of a justified regime, but rather as a (mere) way of thinking about when, and under what conditions, a regime is authoritative over those whom it rules. However, critics of contractarianism have not been persuaded by this response. For what value do make-believe agreements have as explanations of actual political obligations? It seems that speculating about how various regimes *could have been* the product of the consent of certain people, idealized in a certain way, tells us little about why actual regimes, whose creation had nothing to do with the citizenry's consent, exercise legitimate political control over those subject to them. As Ronald Dworkin puts it, 'A hypothetical contract is not simply a pale form of an actual contract: it is no contract at all' (Dworkin, 1976, pp. 17–18).

Other social contract theorists have tried to defend their argument, not by treating the contract as hypothetical, but by trying to find an attenuated form of a contract implicit in all political societies. For example, some theorists admit that there is almost never an explicit act of agreement in a community, but nonetheless maintain that such an agreement is implicitly made when members of the society engage in certain acts through which they give their 'tacit' consent to the ruling regime. It has been controversial which actions constitute the giving of tacit consent: philosophers such as Plato and John Locke have argued that the acceptance of benefits is sufficient to give such consent, but others (e.g. Robert Nozick) have argued that it is wrong to feel obliged to those who foist upon us benefits for which we have not asked. (See Plato, *Crito*, 50e–51c [1956, pp. 61–2]; Locke, [1690] 1991, pp. 347–9, sections 119–22; Gauthier, 1979, p. 12; Rawls, 1971, p. 118; Hart, 1961, pp. 85ff.; Nozick, 1974, pp. 90–5.) It is also unclear how much of an obligation a person can be under if he gives only tacit consent to a regime. For example, Locke recognizes a distinction between the political obligations of those who have explicitly consented to belong to a society, and those who have only tacitly consented to it. He argues that tacit consent, by which Locke means 'submitting to the Laws of any Country, living quietly, and enjoying Privileges and Protection under them', is not sufficient to make someone a full member of a political society:

> Nothing can make any Man so, but his actually entering into it by positive Engagement, and express Promise and Compact. This is that, which I think, concerning the beginning of Political Societies, and that *Consent which makes any one a Member* of any Commonwealth. (Locke, [1690] 1991, p. 349, section 122; my emphasis)

But Locke has no argument for his contention that this is all tacit consent can secure. Moreover, if hardly anyone has ever given their explicit consent to a regime anyway, and there are controversies about when, if ever, someone has tacitly consented to a

regime as well as what they have tacitly consented to, the nature of the political obligation of a full citizen of a state remains obscure, and the justification of the state's rule over us has not been adequately explained or defended.

However, I believe that it is possible to offer an interpretation of how the social contract idea works in these arguments, such that the state, and its rule over us, is both justified and explained. This interpretation recognizes that these arguments have both a descriptive and a hypothetical component to them.

Descriptive and Prescriptive Forms of the Contract Argument

I will argue that social contract theorists have intended simultaneously to describe the nature of political societies, and to prescribe a new and more defensible form for such societies.

The contractarians' descriptive project will strike present-day theorists as obvious and unremarkable, yet in its day it was both controversial and highly important. People such as Hobbes and Locke were certainly well aware that the subjects of their state had not explicitly consented to any ruler. Nonetheless, I believe their invocation of a social contract among the people as the source of the state is, in part, an attempt to make one modest factual statement, namely, that authoritative political societies are human creations. This thesis was highly radical in the seventeenth century, because it essentially insists that, as a matter of *fact*, the authority of the state is not something that can be derived from some sort of natural or innate authority possessed by some set of supposedly superior persons over others, nor something that is derived solely from the word of God. Instead, this thesis insists that the authority of the state is the creation of the people who constitute it (albeit perhaps also a human creation that God endorses). The creation of the state is the creation of rules, or authoritative norms, which define the legal system and establish the obligations of those who would serve in it. Only officials who are empowered by this set of norms are correctly known as 'legal authorities'. Although no contractarian has argued that all authorities are human creations in this sense (Locke maintained that parental authority was natural, and even Hobbes accepted that God's authority was natural and not a human creation), the thrust of their argument is that the authority of a *legal* system is a human invention – and yet one to which we nonetheless believe we owe great allegiance.

How do the people interact so as to create and sustain a political and legal system? The contractarian's term of 'social contract' is misleading insofar as it suggests that people either tacitly or explicitly exchange promises with one another to create or support certain governmental structures. We do no such thing. But I have suggested elsewhere that an analysis of the details of the contractarians' own arguments suggests that they see government structures as *conventionally* generated (Hampton, 1990; see also Kavka, 1986). Certain institutions, practices and rules become conventionally entrenched (in a variety of ways) in a social system, and insofar as the people continue to support them, these conventions continue to prevail, and thus comprise the political and legal system in the country. Hobbes suggests this analysis when he insists that each of us should appreciate the way in which adherence to the dictates of government is to our advantage, as long as we are in a situation where others are also willing to follow

these dictates (Hobbes, [1651] 1990, chs 14 and 15). And David Hume explicitly presents certain political institutions such as the property system as conventionally generated and supported because such institutions are perceived to be mutually advantageous (Hume, [1739–40] 1978, III, II, viii, p. 548).

So a 'conventional' reading of the nature of the 'social agreement' which is supposed to be the foundation of a legal system yields a descriptive account of the nature of the state which is neither implausible nor indefensible. Indeed, such a reading even provides us with a plausible interpretation of the nature of the 'tacit consent' given by citizens to their government: such consent is indicated by activities that, taken together, are supportive of the conventions comprising the political and legal systems of the state. A person bestows such consent when she believes it is in her interest to support these conventions; and she withdraws this consent by failing to support, or else actively undermining, those conventions.

Note that this conception of consent is merely *descriptive*; I have not argued – nor would I wish to suggest – that any contractarian has maintained that when a government receives such consent, it is thereby justified as a legitimate and morally successful regime. All I have said thus far is that social contract arguments for the state can be interpreted so as to provide plausible descriptions of political societies as conventionally generated human creations – far more plausible, indeed, than rival divine rights arguments or natural subjugation theories.

Contract and Consent

Given the weak conception of consent in social contract arguments functioning as descriptive accounts of political societies, how can such arguments have prescriptive force?

The contractarian is, as I have said, committed to the idea that the state is a human-made institution. Contractarians explain the *existence* of morality in society by appealing to the convention-creating activities of human beings. However, they also argue that the *justification* of the state in any human society depends upon how well its (conventionally defined) structure serves individuals' needs and desires. By considering 'what we *could* agree to' if we had the chance to reappraise and redo the co-operative conventions in our society, we are able to determine the extent to which our present conventions are mutually acceptable and so rational for us to accept and act on. Thus, contractarians can be understood to be invoking both actual agreements (or rather, conventions) and hypothetical agreements (which involve considering what conventions would be 'mutually agreeable') at different points in their theory; the former are what they believe our political life in fact consists in; the latter are what they believe our political life *should* consist in – and thus what our state should model. So what we 'could agree to' has prescriptive force for the contractarians not because make-believe promises in hypothetical worlds have any binding force upon us, but because this sort of agreement is a device that (merely) reveals the way in which (what is represented as) the agreed-upon outcome is rational for all of us.

Hence the contractarians' argument is that our tacit consent binds us to a *legitimate* and morally acceptable state only if the conventions which comprise it are the sort of

conventions that we could agree to, were we able to impartially and fairly reappraise and recreate those conventions.

But exactly how should we reflect upon what we 'could' have agreed to? Contractarians have answered that question in a variety of ways, but they have basically been inspired by two fundamentally different perspectives on how to use the contract image to reveal moral political structures. It is to these two perspectives that I now turn.

Morality and the Contract Argument

Social contract arguments purport to have prescriptive force when they maintain that we *ought* to do that which human beings – appropriately rational – 'could agree to'. As I have already indicated, this kind of prescriptive use of the argument is generally made by contractarians aiming not merely to describe but also to prescribe the best, or most just, form of political society. But some theorists have suggested that this argument can be used, more generally, to prescribe the moral rules upon which individuals should decide their conduct with respect to one another. There have been a number of attempts to categorize prescriptive social contract arguments. (See for example, Hamlin, 1989; Brian Barry's 1989 categorization is also relevant, although not explicitly about contractarian theories.) However, here I shall isolate two kinds of prescriptive argument which the contract image has spawned (based on Hampton, 1992a), the first having its roots in Hobbes and the second having its roots in Kant.

Hobbesians (a category that includes not only Hobbes but modern theorists such as David Gauthier, 1986 and James Buchanan, 1975) start by insisting that what is valuable is what a person desires or prefers, not what he ought to desire or prefer (for no such prescriptively powerful object exists); and rational action is action which achieves or maximizes the satisfaction of desires or preferences. They then go on to insist that moral action is rational for a person to perform if and only if such action advances the satisfaction of his desires or preferences. Finally, they argue that because moral action leads to peaceful and harmonious living conducive to the satisfaction of almost everyone's desires or preferences, moral actions are rational for almost everyone and thus 'mutually agreeable'. But in order to ensure that no co-operative person becomes the prey of immoral aggressors, Hobbesians believe that moral actions must be the conventional norms in a community, so that each person can expect that if she behaves co-operatively, others will do so too. These conventions comprise the institution of morality in a society.

So the Hobbesian moral theory almost exactly parallels the structure of social contract arguments with respect to the state. It is committed to the idea that morality is a human-made institution, which is justified only to the extent that it effectively furthers human interests. Hobbesians explain the *existence* of both moral and political institutions in society by appealing to the convention-creating activities of human beings. And they argue that the *justification* of both sorts of institution in a human society depends upon how well these conventions serve individuals' desires or preferences. By considering 'what we *could* agree to' (if we had the chance to reappraise and redo the co-operative conventions in our society, we are able to determine the extent to which

our present conventions are 'mutually agreeable' and so rational for us to accept and act on. Thus, Hobbesians invoke both actual agreements (or rather, conventions) and hypothetical agreements (which involve considering what conventions would be 'mutually agreeable') at different points in their theory; the former are what they believe our moral and political life consist in; the latter are what they believe our moral life and political life *should* consist in – i.e. what our actual moral life should model.

Hence, the notion of the contract does not do justificational work *by itself* in the Hobbesian moral theory: this term is only used metaphorically. What we 'could agree to' has prescriptive force for the Hobbesians, not because make-believe promises in hypothetical worlds have any binding force but because this sort of agreement is a device that (merely) reveals the way in which the agreed-upon outcome is rational for all of us. Hence, thinking about 'what we could all agree to' allows us to construct a deduction of practical reason to determine what policies are mutually advantageous.

Many theorists are attracted to this theory because of its sensible metaphysics: just as it does not base political society on the unseen hand of omnipotent deities or some kind of mysterious natural superiority supposedly possessed by some but not all, it also refuses to base morality on strange, non-natural properties or objects, and it refuses to credit human beings with what Mackie calls 'magical' powers capable of discerning the moral truth 'out there' (Mackie, 1977, ch. 1). Instead, it sees morality as a human invention, which we commend to the extent that it is mutually advantageous for those who would use it.

But such a metaphysical foundation is attractive only if what is built upon it counts as a genuine morality, with genuine prescriptive force. And there are good reasons for complaining that Hobbesian contractarianism yields considerably less than the real thing. When *Leviathan* was originally published, some readers sympathetic to Aristotelian ideas were shocked by the idea that the nature of our ties to others was interest-based, and contended that Hobbes's theory went too far in trying to represent us as radically separate from others. Their worries are also the worries of many twentieth-century critics including feminists, who insist that any adequate moral theory must take into account our emotion-based connections with others, and the fact that we are socially defined beings (e.g. see Pateman, 1988; and even Gauthier, 1977, pp. 13–64).

But I would argue that what disqualifies it at a more fundamental level as an acceptable moral theory is its failure to incorporate the idea that individuals have what I will call 'intrinsic value'. It has not been sufficiently appreciated, I believe, that by answering the 'Why be moral?' question by invoking self-interest in the way that Hobbesians do, one makes not only co-operative action but also the human beings with whom one will co-operate merely of *instrumental value.* That is, if you ask me why I should treat you morally, and I respond by saying that it is in my interest to do so, I am telling you that my regard for you is something that is merely instrumentally valuable to me: I do not give you that regard because there is something about you yourself that merits it, regardless of the usefulness of that regard to me. Now Hobbes is unembarrassed by the fact that on his view, 'The *Value*, or WORTH of a man, is as of all other things, his Price; that is to say, so much as would be given for the use of his Power: and therefore is not absolute; but a thing dependent on the need and judgement of another' (Hobbes, [1651]

1990, p. 63 (ch. 10, para. 16)). But this way of viewing people is not something that we, or even some Hobbesians, can take with equanimity. In the final two chapters of his book *Morals by Agreement* (1986), David Gauthier openly worries about the fact that the reason why we value moral imperatives on this Hobbesian view is that they are instrumentally valuable to us in our pursuit of what we value. But note *why* they are instrumentally valuable: in virtue of our physical and intellectual weaknesses that make it impossible for us to be self-sufficient we need the co-operation of others to prosper. If there were some way that we could remedy our weaknesses and become self-sufficient, e.g. by becoming a superman or superwoman, or by using a Ring of Gyges to make ourselves invisible and so steal from the stores of others with impunity, then it seems we would no longer value or respect moral constraints because they would no longer be useful to us – unless we happened to like the idea. But in this case sentiment, rather than reason, would motivate kind treatment. And without such sentiment, it would be rational for us to take other people as 'prey'.

Even in a world in which we are not self-sufficient, the Hobbesian moral theory gives us no reason outside of contingent emotional sentiment to respect those with whom we have no need of co-operating, or those whom we are strong enough to dominate, such as old people, or the handicapped, or retarded children whom we do not want to rear, or people from other societies with whom we have no interest in trading. And I would argue that this shows that Hobbesian moral contractarianism fails in a very serious way to capture the nature of morality. *Regardless* of whether or not one can engage in beneficial co-operative interactions with another, our moral intuitions push us to assent to the idea that one owes that person respectful treatment simply in virtue of the fact that he or she is a *person.* It seems to be a feature of our moral life that we regard a human being, whether or not she is instrumentally valuable, as always intrinsically valuable. Indeed, note that to the extent the results of a Hobbesian theory are acceptable, this is because one's concern to co-operate with someone whom one cannot dominate leads one to behave in ways that mimic the respect one ought to show her simply in virtue of her worth as a human being.

Kantian Contractarian Theory

The second kind of prescriptive contractarian theory is derived from the theorizing of Immanuel Kant. In his later writings Kant proposed that the 'idea' of the 'Original Contract' could be used to determine which social policies would be just (e.g. see Kant, 1970). When Kant asks 'What could people agree to?' he is not trying to justify actions or policies by invoking, in any literal sense, the consent of the people. Only the consent of real people can be legitimating, and Kant talks about hypothetical agreements made by hypothetical people. But he does believe these make-believe agreements have moral force for us because the process by which these people reach agreement is morally revealing. By imagining what fully rational people would agree to, each of whom is concerned that he should get his due, and none of whom is affected by prejudice or the distorting powers of passion, Kant believes we can determine political policies that are logically consistent, prudentially sound and properly respectful of each person as an 'end in himself'.

Kant's contracting process has been further developed by subsequent philosophers. For example, in his classic *A Theory of Justice*, John Rawls concentrates on defining the hypothetical people who are supposed to make this agreement so that their reasoning will not be tarnished by immorality, injustice or prejudice, thus ensuring the outcome of their joint deliberations will be morally sound. By subjecting his contractors to a 'veil of ignorance', which removes all specific knowledge of their culturally determined beliefs and political views, along with knowledge of their personal characteristics (e.g. race or gender), Rawls hopes to purge people of any immoral prejudices and any tainted perspectives inculcated by an unjust social system, before he asks them to reach agreement on a suitable conception of justice. In this way he hopes to ensure that they will reason about and reach agreement on a conception of justice in a fully moral way (although it is problematic how 'contractarian' Rawls's method is if it incorporates the veil of ignorance, insofar as this veil makes every person in the original position exactly the same – see Hampton, 1980). Some contractarians who disagree with Rawls's conclusions nonetheless approve of the Kantian use of the social contract as a method of revealing that which is morally acceptable, and use the method to justify different conclusions by defining the contracting parties differently. Others, such as T. M. Scanlon, argue that the method should be used not merely to define the best conception of political justice, but also morality as a whole.

The Kantians' social contract is therefore a *device* used in their theorizing to *reveal* what is just, or what is moral. So like the Hobbesians, their contract talk in their prescriptive theories is really just a way of reasoning that allows us to work out conceptual answers to moral problems. But whereas the Hobbesians' use of contract language expresses the fact that, on their view, morality is a human invention which (if it is well invented) ought to be mutually advantageous, the Kantians' use of the contract language is meant to show that moral principles and conceptions are provable theorems derived from a morally revealing and authoritative reasoning process or 'moral proof procedure' that makes use of the social contract idea.

Kantian contractarian arguments are frequently more appealing to people than the Hobbesian variety. However, they are highly vulnerable to attack for a different reason. People such as Rawls who espouse them argue that when we reflect upon what (suitably defined) people could 'agree to', we are reflecting from an 'Archimedean point', surveying the terrain of morality from an acceptably impartial and morally revealing vantage point. But no Kantian contractarian, including Rawls, has convincingly demonstrated that his contractarian theory provides such an Archimedean point, because no contractarian has specified his theory sufficiently such that we can be sure it relies only upon 'morally pure' starting points and not the sort of biased (e.g. sexist or racist) ideas or intuitions that an unjust society would encourage in its citizens.

There are two ways in which these morally suspect intuitions might be intruding into a Kantian's theory. First, they may be covertly motivating the particular constraints, assumptions or features that are supposed to apply in the contract situation. Feminists are implicitly criticizing Rawls's theory on this basis when they charge that his assumption that parties in the original position are self-interested is motivated by intuitions about what counts as a plausibly 'weak' psychology that actually derive from a discredited Hobbesian view of human nature. According to these critics, this component of Rawls's thinking drives out of his theory both our emotion-based attachments

to others' well-being and our other-regarding, duty-based commitments to them, demonstrating the extent to which even this high-minded Kantian appears heavily in the grip of outmoded and distorting individualistic intuitions. Second, suspect intuitions may be illicitly operating *within* the Kantian's reasoning procedure, thereby playing a direct role in the justification of his political conclusions. For example, many critics have charged that Rawls fails to motivate the inclusion of the maximin rule of choice under uncertainty effectively in his argument; but because that rule is essentially what picks out Rawls's own conception of justice as that which is favoured by his contractors, removing the rule from the argument would mean that the selection of that conception could only be based on appeals to vague intuitions about what seems 'best', intuitions which might not withstand sustained moral scrutiny if they were better understood. (For a review of the problems with Rawls's maximin rule, see Harsanyi, 1975, pp. 594–606; and Hubin, 1980, pp. 363–72.)

Although Scanlon does not presume that his contract approach defines an 'Archimedean point', his approach is even more susceptible to the charge that it is covertly relying on ill-defined or ill-defended intuitions (Scanlon, 1982, pp. 103–28). Scanlon argues that (what he calls) the 'contractualist' account of the nature of moral wrongdoing goes as follows: 'An act is wrong if its performance under the circumstances would be disallowed by any system of rules for the general regulation of behavior which no one could reasonably reject as a basis for informed, unforced general agreement' (ibid., p. 110). This definition is intended as 'a characterization of the kind of property which moral wrongness is' (ibid.). Now in this statement of contractualism, the reader is inevitably drawn to the word 'reasonably', yet Scanlon never explicitly cashes out the term. He claims, for example, that a policy A which would pass an average utilitarian test but which would cause some to fare badly is, *prima facie*, a policy that the 'losers' would be reasonable to reject (ibid., pp. 123–4). However, he goes on to say that ultimately the reasonableness of the losers' objection to A is not established simply by the fact that they are worse off under A than they would be under some alternative policy E in which no one's situation is as bad. Instead, says Scanlon, the complaint against A by the A-losers must be weighed against the complaints made by those who would do worse under E than under A. 'The question to be asked is, is it unreasonable for someone to refuse to put up with the Loser's situation under A in order that someone else should be able to enjoy the benefits which he would have to give up under E?' (Scanlon, 1982, p. 123). But on what grounds, or using what criteria, can we provide the right answer to this question? Scanlon gives us no directions for adjudicating the complaints of the two groups in this situation, and one begins to worry that his appeal to 'reasonableness' as a way of determining the solution is an appeal to inchoate intuitions.

So we do not know what is really doing the work in Scanlon's test, and this generates at least three problems for his theory. First, we cannot be sure that everyone who uses Scanlon's test will rely on the same conception of 'reasonableness' to arrive at the same answer. Second, unless his conception of reasonableness is fully (and acceptably) explicated, we have good reason to worry about what might seem 'reasonable' to people raised in unjust (e.g. sexist or racist) societies. And third, unless this conception is fully explicated, those of us loyal to contractarianism as a distinctive form of moral argument have reason to worry that there is so much reliance on intuition in the operation of

Scanlon's test that his approach ultimately reduces to some other ethical theory. For example, if these intuitions are understood as foundational, his theory would seem to amount to nothing more than a version of ethical intuitionism, or if they are understood to be generated by some other moral theory, such as utilitarianism, the contract method would appear to be merely a way of marshalling ideas generated by that other theory. Thus a utilitarian might argue that 'reasonable rejection', should be understood as rejection on the grounds that what is being proposed is not utility-maximizing for the group. But Scanlon wants to be able to draw upon and generate anti-utilitarian ideas in his contractarian theory via argument rather than via appeal to intuition alone. And although Scanlon is prepared to allow that contractarian reasoning might endorse the utilitarian principle, he insists that it must do so in a 'contractarian way', i.e. a way that was not itself a form of utilitarian reasoning. Hence he needs to give us the structure of this uniquely contractarian way of reasoning. Since neither he nor, for that matter, any Kantian contractarian has given us any sense of what these ideas are, why they are appropriate to rely upon, or how they work together to form a non-intuitionistic moral reasoning procedure, we begin to wonder whether or not this or indeed any Kantian's appeal to 'what we could agree to' is just a way to fabricate a defence for moral or political conceptions that these Kantian theorists happen to like, but for which they cannot provide a valid argument resting on plausible and well-explicated premisses.

Thus far, no fully satisfactory prescriptive form of contractarianism has been generated that is immune from any of the problems I have just detailed. However, many theorists – including this author – continue to be attracted to a contractarian way of thinking about morality because of what they take to be its appealing form of individualism. This type of argument assumes that moral and political policies must be justified with respect to, and answer the needs of, individuals rather than large-scale social groups, ethnic nations or other forms of community. Now, precisely for this reason, contractarian theories have been criticized by what are called 'communitarian' philosophers who argue that moral and political policies can and should be decided on the basis of what is best for a community. They are also attacked by utilitarian theorists whose criterion of morality is the maximization of the utility of the community, and not the mutual satisfaction of the needs or preferences of individuals. However, contractarians contend that both sorts of theory fail to take seriously the distinction between, and intrinsic importance of, persons as individuals, whereas contractarian theories make moral and political policies answerable to the legitimate interests and needs of each of us. Hence, for this reason, contractarians insist that the individual has to be the starting point of all moral and political theorizing. How successful they will be in persuading sceptics about the advantages of their justificational strategy will depend in part on how successful they are in developing the prescriptive form of their theory so that it is more than just an intuitive appeal to ill-defined and possibly suspect intuitions.

Social Contract Arguments and Democracy

Despite controversies surrounding their interpretation, social contract arguments have been important to the development of modern democratic states. In this section I want

to suggest (based on arguments in Hampton, 1992b) how the idea of the government as the creation of the people, which they can and should judge and which they have the right to overthrow if they find it wanting, has contributed to the development of democratic forms of polity in the eighteenth and nineteenth centuries.

In the old days, those theorists, such as Hobbes or Locke, who maintained, *contra* the divine rights theorists, that it was the people, and not God, who established and legitimized political power, also assumed that, as a matter of fact (albeit perhaps not of right), what the people did when they did not like a regime was to stage a revolution, preferably bloodless, in which rulers were overthrown, and if necessary (as in Britain in 1688), the political rules changed. But what if one could design a political system in which 'revolution' was an organized and regular part of the political process? This is the idea which inspired the founders of modern democratic societies (and particularly the founders of the American polity); it is at the heart of the structure of contemporary democratic states.

Defenders of modern democracy self-consciously recognize one of the main descriptive points the contractarians aimed to articulate through their arguments, namely that *political societies are created and maintained by the people that are ruled in them.* And this creation-and-maintenance process involves the creation and maintenance of a set of authoritative norms that define the legal system and the obligations of the officials who work within it. However, *modern democracies operate so that the people have continual control over the process of creating and maintaining the regime.* In modern democracies, the people have created not only the 'legal game', but also another game that defines how to play the 'creation-and-maintenance' game. Let me explain.

Consider the standard coup: Ruler X has power because there is a rule, accepted by the people, that he is authorized to do so. But when some or all of the people no longer accept that rule, they engage in various power-retracting activities, and if enough people (or enough of the people who have most control over the present rulership convention) engage in these activities, Ruler X is gone. (So, for example, in the case of the 1991 Soviet coup, when too many people in powerful positions refused to obey orders – e.g. Russian and Baltic soldiers in the army, political officers in various Soviet states, and various people involved in the economic life of the nation – the coup collapsed.) How such activities can come to be possible, and even co-ordinated despite the opposition of rulers, is a fascinating story – communication among opponents of a ruler is critical (and thus some pundits argued that one of the reasons the Soviet regime eventually collapsed was the existence of the fax machine). In another place I have described this kind of revolutionary activity at length and labelled it 'convention-dissolving', in virtue of the fact that it unravels the convention defining who is to hold power – which is just to say that it destroys the society's rule of recognition (Hampton, 1990).

The experience of England in the seventeenth century was that political convention-dissolving could be difficult, lengthy and even deadly dangerous for those involved in it. This lesson was not lost on the American revolutionaries. But the men who formed the American Constitution essentially asked themselves this: what if the people could get control of convention-dissolving activity – establishing rules that would actually allow it to occur on a periodic basis if the people so decided, and which would regulate it so that the dissolution would be as peaceful and orderly as possible? If there could be

a 'system of revolution' that was attached to the legal system, both rules and rulers could be changed quickly with minimal cost and disruption to the people. And the possibility of replacing them peacefully and painlessly would increase the people's control over the shape of their political game and thus allow them to better supervise their leaders (who would know that their being fired was not a particularly costly action for the people, and who would thus be under pressure, if they wanted to retain their jobs, to perform them as the people required). By and large, this 'controlled convention-dissolving activity' involves what is commonly referred to as 'voting', as I shall now explain.

Consider how constitutions for democratic societies tend to work. They not only set up a certain kind of government, with offices that involve distinctive kinds of power and jurisdiction, but also rules for creating and dissolving conventions about who holds these offices. Through these rules various government officials are empowered; but through these rules they can also be peacefully and effectively deprived of power. *Voting is therefore a form of controlled revolutionary activity.* Socialist radicals of the early twentieth century were right when they referred to votes as 'paper stones' (see Przeworski and Sprague, 1986). Elected 'representatives' do not represent the citizenry in any literal sense – as if the citizenry were doing the ruling 'through them'. This is nonsense. They rule and we do not. But it is because those of us in modern democratic societies can easily deprive them of power – depose them, if you will – at certain regular intervals that they have (at least theoretically) the incentive to rule in a way responsive to our interests. Just like any other employee, if they want to keep their jobs they must work to the satisfaction of their employer. They therefore 'represent' us in the way that any agent represents those who authorize her. In modern democratic regimes, representation is actually a form of agency, so that it is a form of political society that explicitly recognizes the relationship between ruler and people which the Lockean contractarian theory set out. This is not unlike Hannah Pitkin's view of the nature of representation in modern democratic societies (see Pitkin, 1967). However, Pitkin tends to use the metaphor of trust, and that metaphor is problematic. A trustor does not own that which is used on his behalf by the trustee. Moreover, unlike in an agent/client relationship, the trustee/trustor relationship is one in which the trustor does not have sufficient standing to fire the trustee, and is generally regarded as inferior to or less competent than the trustee, such that he must be subject to the trustee's care. (So children are assigned trustees; and in nineteenth-century England married women could only hold property in trust, in virtue of what was taken to be their inferior reasoning abilities.) The assumptions of the rights and powers of citizens in modern democratic societies are at odds with the presumption of the trustor's incompetence. Those who would rule us are, in a democracy, obliged to respect the citizens who choose them, and are in a continual competition with one another, as they attempt to gather votes which will, each hopes, be sufficient, according to the rules, to hire her as ruler.

So a modern democracy is a government that is by the people, for the people and of the people – except that this last preposition is misleading. Unlike in ancient Athens, most of us are not actually in the government – only a few of us are. What makes this a government of the people is the fact that the overarching rule defining the government not only includes rules that define the operation and structure of the political system, but also rules that grant the people the power to create and dissolve portions

of that political system if they choose to do so with relatively little cost. Creating these latter rules is a novel way of extending the activity involved in creating and maintaining government. Such rules allow the people to play their role as definers of their political society in a more effective and controlled way. Those who fashioned modern democracies came to see that not only such activities as criminal punishment and tort litigation but also the very process of adding to or changing the political game itself could be made part of a larger conception of the 'political game'. Or, to put it another way, they discovered that revolutionary activity could be an everyday part of the operation of a political society.

Conclusion

It remains to be seen what further effects contractarian arguments will have on moral and political institutions. But the increasing experimentation in the world today with non-traditional but partially consent-based forms of polity, such as the European Community, the remarkable (albeit sometimes stormy) resilience of multicultural consent-based regimes, and the astonishing success of contractarian-based modern democratic polities, suggests that the contractarians' insistence that justified and stable regimes are those in which people are consensually bound to one another and to their government for as long as the political society is operating in a morally successful way, will continue to be an extremely promising and important contribution to the political and moral life of people far into the future.

References

Barry, B.: *Treatise on Social Justice,* Vol. 1: *Theories of Justice* (Berkeley: University of California Press, 1989).

Buchanan, J.: *The Limits of Liberty: Between Anarchy and Leviathan* (Chicago, Ill.: University of Chicago Press, 1975).

Dworkin, R.: 'The original position', in *Reading Rawls*, ed. N. Daniels (New York: Basic Books, 1976).

Gauthier, D.: 'Social contract as ideology', *Philosophy and Public Affairs*, 6 (1977), 130–64.

—: 'David Hume: contractarian'. *Philosophical Review*, 88 (1979), 3–38.

—: *Morals by Agreement* (Oxford: Oxford University Press, 1986).

Hamlin, A.: 'Liberty, contract and the state', in *The Good Polity*, ed. A. Hamlin and P. Pettit (Oxford: Blackwell, 1989).

Hampton, J.: 'Contracts and choices: does Rawls have a social contract theory?'. *Journal of Philosophy*, 77 (1980), 315–38.

—: *Hobbes and the Social Contract Tradition* (Cambridge: Cambridge University Press, 1986).

—: 'The contractarian explanation of the state', in *Midwest Studies in Philosophy: The Philosophy of the Human Sciences*, ed. T. Ueling (Minneapolis: University of Minnesota Press, 1990).

—: 'Feminist contractarianism', in *A Mind of Her Own*, ed. L. Antony and C. Witt (Boulder, Col.: Westview Press, 1992a).

—: 'Democracy and the rule of law', in *Nomos*, ed. I. Shapiro and R. Barnett (New York: New York University Press, 1992b).

Harsanyi, J.: 'Can the maximin principle serve as a basis for morality? A critique of John Rawls' *A Theory of Justice*', *American Political Science Review*, 69 (1975), 594–606.
Hart, H. L. A.: *The Concept of Law* (Oxford: Clarendon Press, 1961).
Hobbes, T.: *Leviathan* (1651), ed. Richard Tuck (Cambridge: Cambridge University Press, 1990).
Hubin, D. C: 'Minimizing maximin', *Philosophical Studies*, 37 (1980), 363–72.
Hume, D.: *A Treatise of Human Nature* (1739–40), ed. L. A. Selby-Bigge and revised P. H. Nidditch (Oxford: Clarendon Press, 1978).
—: 'The original contract?', *Hume's Ethical Writings*, ed. A. MacIntyre (London: Collier, 1965), pp. 255–73.
Kant, I.: 'On the common saying, "This may be true in theory, but it does not apply in practice" ', H. Reiss, ed., *Kant's Political Writings* (Cambridge: Cambridge University Press, 1970), pp. 61–92.
Kavka, G.: *Hobbesian Moral and Political Theory* (Princeton, NJ: Princeton University Press, 1986).
Kukathas, C. and Pettit, P.: *A Theory of Justice and Its Critics* (Stanford, Calif.: Stanford University Press, 1990).
Locke, J.: *Two Treatises of Government* (1690), ed. P. Laslett (Cambridge: Cambridge University Press, 1991).
Mackie, J. L.: *Ethics: Inventing Right and Wrong* (New York: Penguin Books, 1977).
Morrall, J. B.: *Political Thought in Medieval Times* (London: Hutchinson, 1971).
Nozick, R.: *Anarchy, State and Utopia* (New York: Basic Books, 1974).
Pateman, C.: *The Sexual Contract* (Stanford, Calif.: Stanford University Press, 1988).
Pitkin, H.: *The Concept of Representation* (Berkeley: University of California Press, 1967).
Plato: *Crito*, in *Euthyphro, Apology, Crito*, trans. F. Church (Indianapolis, Ind.: Bobbs-Merrill, 1956).
Przeworski, A. and Sprague, J.: *Paper Stones: A History of Electoral Socialism* (Chicago, Ill.: University of Chicago Press, 1986).
Rawls, J.: *A Theory of Justice* (Cambridge, Mass.: Harvard University Press, 1971).
Scanlon, T. M.: 'Contractualism and utilitarianism', in *Utilitarianism and Beyond*, ed. A. Sen and B. Williams (Cambridge: Cambridge University Press, 1982), pp. 103–28.

Further reading

Rousseau, J.-J.: *The Social Contract* and *A Discourse on Inequality* (1762), *The Social Contract and Discourses*, trans. G. D. H. Cole (New York: Dutton, 1950), pp. 1–141; 175–282.
Skinner, Q.: *The Foundations of Modern Political Thought* (Cambridge: Cambridge University Press, 1978).

Chapter 22

Constitutionalism and the Rule of Law

C. L. TEN

Constitutionalism and the Rule of Law are related ideas about how the powers of government and of state officials are to be limited. The two ideas are sometimes equated. But constitutionalism, generally understood, usually refers to various constitutional devices and procedures, such as the separation of powers between the legislature, the executive and the judiciary, the independence of the judiciary, due process or fair hearings for those charged with criminal offences, and respect for individual rights, which are partly constitutive of a liberal democratic system of government. The Rule of Law, on the other hand, embodies certain standards that define the characteristic virtues of a legal system as such.

In the specific context of the United States of America, constitutionalism is often associated with issues related to the correct method of interpreting the Constitution, and to the role of the Supreme Court in constraining legislation. According to the doctrine of 'originalism', the Constitution is to be interpreted by a historical enquiry into the concrete intentions of the framers, even though they used abstract moral principles in formulating constitutional clauses. An alternative account of constitutional interpretation has been forcefully argued by Ronald Dworkin (Dworkin, 1996). His 'moral reading' of the Constitution maintains that the broad and abstract clauses of the Constitution should be interpreted as invoking principles of political morality. Although judges of the Supreme Court have the ultimate authority of interpreting the Constitution, this does not mean that they may impose their personal moral convictions on the public. They are constrained both by what the framers of the Constitution said, and by the requirement of integrity, that the interpretation is consistent with 'the structural design of the Constitution as a whole, and also with the dominant lines of past constitutional interpretation by other judges' (ibid., p. 10). Dworkin's account of interpretation will be invoked again later in order to illustrate a wider notion of the Rule of Law. But for now it is clear that his moral reading provides the basis for answering an often-repeated objection that judicial review of legislation is undemocratic. Dworkin believes that constitutional constraints on legislative enactments can support a conception of democracy, not as majority rule, but rather as resting on a fundamental value of equality of concern and respect for all members of the community. The issues raised by constitutionalism are thereby connected with the character of democracy and the nature and sources of authority.

The requirements of constitutionalism are derived from a political morality which seeks to promote individual rights and freedom, and not directly from values that are supposed to be implicit in the very idea of law itself. Of course, even though the principles of constitutionalism have different foundations, they may still help to maintain the Rule of Law.

There is, however, a tendency to expand the notion of the Rule of Law to embrace all the features of a desirable system of government, especially one in which the liberties and rights of individuals are protected from interference by officials. But such a broad conception of the Rule of Law provides no clear legal foundations for the values it embodies. It is more interesting to begin with a narrower conception of the Rule of Law that incorporates values which are not derivable from a comprehensive political theory about the nature of good government, but that is based on values which are inherent in the very notion of law itself. Not all the characteristics of a good system of government can be derived from whatever values are implicit in the idea of a legal system as such. We shall then see how this narrow conception of the Rule of Law can be developed to embrace the requirements of constitutionalism.

Some recent accounts of the Rule of Law may be viewed from this perspective as attempts to develop a conception that rests on specifically legal values. Lon Fuller's exposition of 'the internal morality of law' is perhaps the most original and ambitious attempt (Fuller, 1971).

Fuller begins with a relatively uncontroversial characterization of a legal system as 'a system for subjecting human conduct to the governance of rules' (ibid., p. 46). The enterprise of creating and maintaining such a system can fail in various ways if certain principles are not complied with. These principles constitute the internal morality of law, which defines different kinds of legal excellence towards which a system of legal rules should strive. If any of these principles is completely violated, then we do not have a legal system at all, not even a bad legal system. There are eight such principles.

The first is that the law should be general. If there is to be a legal system then there must be rules that lay down general standards of conduct. This requirement contrasts law with another form of social ordering which Fuller calls 'managerial direction' (ibid., p. 207). Managers may choose, as a matter of expediency, to direct the conduct of subordinates by means of standing orders instead of giving step-by-step instructions. But subordinates have no basis for complaint if, on a particular occasion, managers direct them to deviate from those general orders. Unlike law, which is a system of guiding conduct by means of general rules, managerial direction does not require the adoption of general orders, although it may find such general orders convenient in appropriate contexts.

The second demand of the internal morality is that laws should be promulgated or made known to those to whom they apply. This is obvious if laws are to guide their conduct.

Third, laws should be prospective and not retroactive. It is not possible for people's conduct to be guided today by rules which do not as yet exist and will only be enacted tomorrow. However, Fuller points out that there are certain contexts in which a retroactive statute does not violate the internal morality of law. He gives the example of a statute which specifies that a valid marriage should have a stamp on the marriage certificate, to be affixed by the person performing the ceremony. But the printing

machine breaks down, and the statute is not sufficiently publicized. Marriages take place between persons ignorant of the statute and before ignorant officials. A second statute retrospectively validates these marriages and thereby remedies defects caused by the earlier failure of the law to comply with the internal morality. Fuller also discusses some of the complexities of the notion of retrospective legislation. The requirement that laws should be prospective is obviously breached by a statute that makes criminal an act that was not an offence at the time of its commission. It is also violated by Hitler, for example, when he killed those he regarded as a threat and then passed a retroactive statute to make his killings lawful. But Fuller believes that the internal morality is not breached by a tax law that imposes a tax this year on financial gains made in a previous year when there was no such tax. The requirement that the tax be paid applies prospectively. It is unlike a retrospective statute enacted today requiring that certain taxes should have been paid yesterday.

The fourth principle of the internal morality is that laws should be clear. Unclear laws cannot be understood and therefore will fail to guide conduct. However, Fuller believes that rules which are formulated in terms of standards of what is ‘fair’ or ‘reasonable’ are not necessarily vague because we can sometimes rely on shared standards and practices in the relevant areas to define the legal requirements.

Fifth, there should be no contradictions in the laws. By ‘contradiction’ Fuller does not mean strict logical contradiction. A law is contradictory in his sense if it gives no intelligible guide to conduct. He gives the hypothetical example of a statute with one provision requiring car owners to install new licence plates on New Year’s Day, and another provision making it a crime to work on that day.

The sixth principle of the internal morality is that laws should not demand the impossible. Fuller discusses the application of this principle to strict liability rules in which legal liability arises without fault or intent. The internal morality does not condemn strict liability in torts, but it condemns strict criminal liability. For example, a law making people strictly liable for all the harm caused in blasting operations may be construed as imposing a tax or surcharge on such activities. Blasting operators can take account of the special tax in their economic calculations of the costs of carrying out their operations. On the other hand, a rule that makes persons criminally liable, even when they acted with due care and with innocent intent, is ‘the most serious infringement of the principle that the laws should not command the impossible’ (Fuller, 1971, p. 77). Strict criminal liability makes the task of the prosecutor much easier, and it has sometimes been defended on the ground that in practice it is only selectively enforced, with prosecutions confined to the real villains. But Fuller believes that such selective enforcement undermines respect for law as a system of publicly enacted rules which are applied without the need to make private settlements with law enforcement agencies.

The seventh principle of the internal morality is that laws should not be changed too frequently. Laws which are changed too often are difficult to comply with and thereby fail to direct people’s conduct.

Finally, the internal morality requires a congruence between official action and the law. This congruence can be undermined in many ways: ‘mistaken interpretation, inaccessibility of the law, lack of insight into what is required to maintain the integrity of the legal system, bribery, prejudice, indifference, stupidity, and the drive toward

personal power' (Fuller, 1971, p. 80). Similarly, there are many devices for maintaining it, including the requirements of due process. But the most interesting part of Fuller's discussion is his attempt to develop a theory of statutory interpretation that will best meet the demand of congruence. He rejects the 'atomistic view of intention', according to which a statute directed against 'dangerous weapons' is aimed at particular objects such as pistols and daggers, and will therefore exclude those weapons which had not been thought of by those who drafted the statute. A court that applies the statute to weapons not yet invented at the time the statute was enacted would, in this view, be legislating (ibid., p. 84). Fuller develops his alternative theory of interpretation with an analogy of a son who has to carry out his father's wish to complete an invention of a household device for which the father had left a pencil sketch before he died. To be faithful to the father's intention, the son does not have to determine the intention that the father had actually formed about how to complete the invention. Instead, the son has to decide what purpose the invention was supposed to serve, and how it would remedy defects in existing household devices. The problem would not be essentially different if the incomplete design had been left by someone unknown to the son. For it is important that the son should look at the incomplete design itself to determine the purpose of the invention and its underlying principle. Similarly, in interpreting a statute, judges have to see what its purpose is, and what problem it is supposed to solve.

In an earlier paper, Fuller gives vivid illustrations of his purposive interpretation of the law (Fuller, 1958, p. 664). Suppose a statute makes it a misdemeanour to sleep in any railway station. The statute is directed at tramps who deprive weary passengers of seats. How should a judge decide two cases of alleged violations of the statue? In the first case, a weary passenger was sitting in an upright position at 3 a.m. waiting for a delayed train. However, the arresting officer heard him snoring. In the second case, a man had settled himself down on the railway bench with a blanket and pillow, but was arrested before he actually fell asleep. Fuller suggests that the judge, who decides to fine the second person and release the first, would not have misinterpreted the law. Similarly, a rule excluding vehicles from a park is aimed at noisy automobiles which destroy the quiet and risk causing injuries to strollers. It cannot therefore be interpreted as ruling out the mounting on a pedestal in the park of a truck used in the Second World War (ibid., p. 663). (Presumably the same truck, if parked in a busy street, would violate a rule prohibiting the parking of vehicles when the purpose of that rule is to prevent obstruction to the free flow of traffic.)

Fuller compares the internal morality of law with 'the natural laws of carpentry' which the carpenter has to follow whether his aim is to build a hideout for thieves or an orphanage (Fuller, 1971, pp. 96, 155). The internal morality is to be distinguished from the external morality, or the substantive aims or values that particular legal rules seek to promote. Fuller develops a conception of the Rule of Law, not by appealing to moral values drawn from the external morality, which will of course vary with different legal rules and systems, but by spelling out the values that underlie the concept of law itself.

This general approach has been followed by others. For example, Rawls treats the legal order as a system of public rules addressed to rational persons, and conceives of the Rule of Law as the regular and impartial administration of these public rules (Rawls,

1971, pp. 235–43). The precepts associated with the Rule of Law are 'those that would be followed by any system of rules which perfectly embodied the idea of a legal system' (ibid., p. 236). These precepts include the idea that 'ought implies can', thus ruling out laws that require or forbid actions which people cannot reasonably be expected to do or to avoid. The notion of regulating conduct by rules also implies the precept that 'similar cases be treated similarly', and thereby imposes limitations on the discretion of officials applying the rules. Rules for organizing social behaviour provide a basis for legitimate expectations. Laws should therefore be promulgated, be clear and non-retrospective. There should be no offence without a law. Rawls also believes that the precepts of natural justice form part of the requirements of the Rule of Law because they are needed to ensure that decisions as to whether the law has been broken are properly made, and that the correct penalties are imposed.

This approach to the Rule of Law is instructive. It provides some grounds for evaluating laws and legal systems without challenging the substantive values of their external moralities. But these grounds are limited. Rawls acknowledges this when he points out that although the precepts of the Rule of Law provide 'a more secure basis for liberty and a more effective means for organizing cooperative schemes', they 'guarantee only the impartial and regular administration of rules, whatever these are', and are 'compatible with injustice' (Rawls, 1971, p. 263). However, Fuller thinks that the internal morality of law is richer, and provides a basis for establishing a necessary connection between law and substantive morality. The claim is made in the context of his rejection of legal positivism's separation of law and morality, and has been subjected to searching criticisms by Hart (1965) and Lyons (1970–1). I shall confine my discussion to the related issue of the nature of the values promoted by Fuller's conception of the Rule of Law.

He believes that although the internal morality is neutral over a wide range of substantive moral aims, it rules out the pursuit of some evil aims. For example, laws promoting racial discrimination will run foul of the requirement of clarity because there is no way of making clear racial categories. But what this shows is that substantive aims involving vague notions cannot be pursued without infringements of the internal morality. These substantive aims may be morally good or bad (Hart, 1965, p. 1287). So far there is no reason to believe that the internal morality will necessarily favour good moral aims.

Of course, as Fuller points out, if rules are publicized, then they are open to public criticism. It is easier for a tyrant to pursue wicked ends if he can, like Hitler, pass 'secret laws'. Fuller also believes that the requirement that there be *general*, public rules will force lawmakers to spell out the principles on which they act and thereby make them more responsible for their conduct (Fuller, 1971, p. 159). However, the extent to which these considerations will undermine evil aims depends on the presence of other factors. The known existence of a bad law need not result in significant attempts to repeal it if we live in a society in which freedom of expression is not allowed or encouraged, or in which citizens have been indoctrinated to accept authority uncritically. And there is nothing in Fuller's conception of the Rule of Law that guarantees the existence of social and educational institutions conducive to freedom of expression.

Fuller makes much of the claim that underlying the internal morality of law is a view of persons as responsible, self-determining agents. But this conception of persons

is supposed to be implicit in the idea of guiding conduct by means of general rules, and is not derived from a system of rules with a specific content. It must therefore be a conception that is equally compatible with all systems of general rules, including unjust systems. Even those who seek to dominate over others, and make them subservient to their settled wishes, will need to express their plans clearly and take account of the fact that people are capable of following rules. Indeed, the moral thinness of this conception of persons is shown by the fact that it is presupposed not just by moral practices of various kinds, but also by any rule-governed enterprise, including the rules of etiquette, games, social clubs and the rules constitutive of ceremonies and rituals.

Fuller rejects the notion of law as 'a one-way projection of authority' in favour of what he calls 'an interactional' view of law (Fuller, 1971, p. 221). He invests this interactional view with substantive moral content that cannot be derived from the basic idea of regulating the conduct of responsible, self-determining agents by means of public, general rules. He sees lawmakers as making a commitment that amounts to a kind of promise. 'By enacting laws government says to the citizen, "These are the rules we wish you to follow. If you will obey them, you have our promise that they are the rules we will apply to your conduct" ' (ibid., p. 217). He goes on to argue that obedience to rules is pointless if it is known that those who make the rules will not pay any attention to them. Conversely, the rulemakers will lack any incentive to conform to the Rule of Law if they know that their subjects lack the disposition and capacity to follow the rules. He argues that 'the functioning of a legal system depends upon a co-operative effort – an effective and responsible interaction between lawgiver and subject' (ibid., p. 219).

The argument may have some force if we assume a certain institutional background. For example, in democratic elections when a political party, seeking to form the government, puts up a legislative programme, it may be said to have made a promise to the electorate. But the mere existence of a rule-governed enterprise is not sufficient to establish the making of a promise. Laws exist not just in democracies, but also in systems of government which do not rest on the consent of the governed. If there is a commitment on the part of the lawmaker as such, then this is no different from that of the gangster who gives a specific instruction, 'Your money or your life'. We may wish to say that the gangster has made a promise not to take your life if you co-operate and hand over your money, and that he will only have an incentive to keep his promise if he knows that you are a responsible agent capable of, and well-disposed to, following his instruction. But the gangster's conduct is still morally unjustified. Similarly, the existence of law as a system of public rules, with all its implicit commitments, is consistent with these rules being directed towards great evil.

Fuller's discussion of strict liability laws also shows his propensity to clothe the internal morality of law with unwarranted moral content. The requirement that laws should not demand the impossible is supposed to rule out strict criminal liability, but not strict civil liability. However, as Hart has pointed out, strict liability in criminal law can guide conduct by steering people away from those activities to which it applies if they cannot be sure of their ability to comply with the law (Hart, 1965, p. 1285). Thus if strict liability attaches to the production of adulterated food, then those fearful of being convicted can avoid working in the relevant food industry. Of course, such an escape is only possible if strict criminal liability does not apply to all the activities of our normal social life. The objection to strict criminal liability rests on the unfairness of

punishing those who are not at fault and have taken all reasonable precautions to conform to the law (Ten, 1987, pp. 105–10). The unfairness here is a thicker moral notion than Fuller's conception of persons as responsible, self-determining agents.

Raz has argued that the independence of the judiciary is essential for the preservation of the Rule of Law because we need to be sure that judges apply the law free from extraneous pressures (Raz, 1979, p. 217). And Rawls has suggested that, 'while there are variations in these procedures, the rule of law requires some form of due process: that is, a process reasonably designed to ascertain the truth, in ways consistent with the other ends of the legal system, as to whether a violation has taken place and under what circumstances' (Rawls, 1971, p. 239). If they are right, then some of the principles of constitutionalism can be derived from the narrow conception of the Rule of Law. But the prospect of deriving all of them seems remote.

Even some of the requirements of natural justice and due process seem to go beyond what is clearly implicit in that conception. The procedures for determining whether a violation of the criminal law has taken place may be weighted in favour of avoiding the conviction of the innocent as against maximizing the conviction of the guilty. The right balance to be struck in ascertaining the truth in a criminal trial depends on moral values that are external to the requirement of applying, as best we can, a system of general rules. Similarly, the separation of powers between the legislature, the executive and the judiciary is not to be justified simply in terms of the narrow conception of the Rule of Law, but also in terms of what will be most effective in checking the powers of government to make bad laws. It is the content of legal rules, and not just the proper application of rules, which is of concern. We need constitutional devices to minimize the danger that rules severely restrictive of liberty will be enacted. The demands of constitutionalism go beyond the requirement that legal rules have certain formal characteristics.

The best-known attempt to develop a conception of the Rule of Law which relies on the formal features of legal rules to defend individual liberty is Hayek's. For him the Rule of Law is a meta-legal or political ideal of what the law ought to be (Hayek, 1960, p. 206). Hayek's conception, although similar to Fuller's in some respects, differs to the extent that Fuller believes the standards embodied in the Rule of Law are not distinct from those which identify the legal system. While a legal system can fail to some degree to conform to the Rule of Law, any major departures from it will, for Fuller, result in the system ceasing to be a legal system.

Hayek conceives of the Rule of Law as the regulation by general, abstract rules equally applicable to all. Law, in this sense, is to be contrasted with a specific command that directs one to perform a particular action. A specific command subjects one to the will of another person, and thereby deprives one of freedom. General rules, on the other hand, are like the laws of nature which provide fixed features of the environment that one can use to plan one's activities. 'There is little difference between the knowledge that if one builds a bonfire on the floor of his living room his house will burn down, and the knowledge that if he sets his neighbour's house on fire he will find himself in jail' (Hayek, 1960, p. 153). In obeying general rules one is using the general knowledge of the obstacles in one's environment to lead a life in accordance with one's own purposes rather than at the direction of another person. Even if some of the obstacles placed by general rules are not avoidable, Hayek believes that the obstacles, being predictable and

not being aimed at the particular individuals affected, lose much of the 'evil nature of coercion' (ibid., p. 143).

Now a defence of freedom in terms of conformity to general rules, without reference to the content of these rules, cannot be adequate. General rules may distinguish between classes of persons or of activities in terms of general properties, and if groups are discriminated against on the basis of morally irrelevant properties, then their liberties would be unjustly curtailed. As Hart has argued, justice in the administration of a rule involves applying a general rule 'without prejudice, interest, or caprice', but this is quite compatible with the rule itself being unjust. Thus an unjust law prohibiting coloured persons from entering parks may be justly administered 'in that only persons genuinely guilty of breaking the law were punished under it and then only after a fair trial' (Hart, 1961, p. 157).

Hayek, however, believes that distinctions made in the law are acceptable 'if they are equally recognized as justified by those inside and those outside the group' (Hayek, 1960, p. 154). He also argues that although it is conceivable that even general and abstract rules equally applicable to all will severely restrict freedom, this is in fact very unlikely because conduct prohibited or required by such rules applies without exception to all, including the lawmakers themselves. He immediately qualifies this claim by acknowledging that a fanatical religious group might impose restrictions which are burdensome to others, though not to its own members. However, he believes that most of the religious restrictions imposed on all, such as the Scottish Sabbath, are 'comparatively innocuous, even if irksome' (ibid., p. 155). He is obviously wrong: the prohibitions of certain sexual activities on religious grounds are severe restrictions of freedom. So also are those restrictions on interracial marriage or sexual relations which apply equally to all. The fact that these obstacles are predictable, and even avoidable, does not rule them out as serious infringements of freedom because they undermine the vital interests of those affected. Of course, these restrictions run foul of Hayek's test that the distinctions made in the law should be equally acceptable to both sides. But this test would condemn not just religious and racial discriminations, but also many other laws that are justified on other grounds. For example, if we define the inside and outside groups in the case of the law against burglary as the group of actual and potential burglars as opposed to the group of victims and potential victims, or the rest of the population, then the law will not be equally acceptable to both groups. Even if the test is one of general acceptance by all those affected, this will rule out laws guaranteeing religious and racial toleration if they are opposed by a majority group of religious and racial fanatics for *failing* to make certain discriminations.

It has been suggested that Hayek's conception of the Rule of Law embodies a strong Kantian principle of universalizability that demands the impartial consideration of the interests of all (Gray, 1984, pp. 61–71). But now we have gone beyond the requirement of impartially *applying* a system of general and abstract rules. If we base the Rule of Law simply on such a system of rules, then the virtues of the Rule of Law are more limited than suggested by Fuller and Hayek. Perhaps we have to agree with Raz that its value is essentially negative (Raz, 1979, p. 224). According to him, the Rule of Law is designed to minimize the danger of arbitrary power created by the law itself. It is also designed to prevent infringements of the liberty and dignity of persons caused by laws which are unstable, unclear or retrospective.

The maintenance of the Rule of Law is not enough to ensure substantive justice, but neither should it be seen as an unnecessary barrier to the promotion of substantive justice. Indeed, in a liberal and democratic political culture, the Rule of Law provides important safeguards against the enthusiasm of those seeking substantive justice. It gives some protection to those who are 'least popular and most despised' (Tribe, 1989, p. 727).

Dworkin has expounded a conception of the Rule of Law that rests on a broader notion of the law than that relied on by what he calls the 'rulebook' conception. According to the rulebook conception, the standards to be applied in the legal system must be in accordance with 'rules explicitly set out in a public rulebook available to all' (Dworkin, 1985, p. 11). This conception treats the ideal of substantive justice as separate from that of the Rule of Law. Dworkin's alternative is a 'rights' conception of the Rule of Law which assumes that citizens have moral and political rights which should be enforced by the courts. In hard cases, in which no explicit rule applies, the rights conception requires that judges make political judgements, not in the party political sense, but in the sense that they give 'a coherent general interpretation of the legal and political culture of the community' (ibid., p. 2). The political judgements involve moral and political arguments. The approach is therefore different to that of the rulebook conception, which recommends various types of historical enquiries in hard cases to discover the intention or will of the lawmakers who have been authorized by the community to decide what rules should apply.

In any easy case where an explicit rule clearly applies, the rights and the rulebook conceptions will support the same decision. However, the rights conception recognizes that the rights of citizens are not exhausted in explicitly enacted or formulated rules to be found in the rulebook. Judges are not free to ignore what is in the rulebook, and in hard cases a coherent interpretation of the law must be compatible with what is in the rulebook. For example, judges who themselves believe in the radical Christian principle that the poor are entitled to the surplus from those who are wealthier, should not apply it to tort or contract cases by refusing damages against a poor defendant. The principle is inconsistent with the explicit rules. But different sets of moral principle may each be compatible with the rules in the rulebook, and judges would have to interpret the law on the basis of what they believe to be the correct moral principles. They will construct the moral and political theory which best explains and justifies the explicit rules of the legal system. Dworkin (1986) has developed and refined his views into a sophisticated and much discussed theory of the law and of adjudication. Without going into the details of the theory, we can note that if Dworkin's rights conception of the Rule of Law is accepted, then the virtues of the Rule of Law would not be entirely negative. A significant element of substantive justice is promoted by the Rule of Law in communities whose moral and political culture takes individual rights seriously.

References

Dworkin, R.: *A Matter of Principle* (Cambridge, Mass.: Harvard University Press, 1985).
—: *Law's Empire* (London: Fontana Press, 1986).
—: *Freedom's Law* (Cambridge, Mass.: Harvard University Press, 1996).

Fuller, L. L.: 'Positivism and fidelity to law – a reply to Professor Hart', *Harvard Law Review*, 71 (1958), 630–72.
—: *The Morality of Law*, revised edn (New Haven, Conn.: Yale University Press, 1971).
Gray, J.: *Hayek on Liberty* (Oxford: Blackwell, 1984).
Hart, H. L. A.: *The Concept of Law* (Oxford: Clarendon Press, 1961).
—: 'Lon L. Fuller: *The Morality of Law*', *Harvard Law Review*, 78 (1965), 1281–96. Reprinted in H. L. A. Hart, *Essays in Jurisprudence* (Oxford: Clarendon Press, 1983).
Hayek, F. A.: *The Constitution of Liberty* (London: Routledge & Kegan Paul, 1960).
Lyons, D.: 'The internal morality of law', *Proceedings of the Aristotelian Society*, 70 (1970–1), 105–19.
Rawls, J.: *A Theory of Justice* (Cambridge, Mass.: Harvard University Press, 1971).
Raz, J.: *The Authority of Law* (Oxford: Clarendon Press, 1979).
Ten, C. L.: *Crime, Guilt, and Punishment* (Oxford: Clarendon Press, 1987).
Tribe, L. H.: 'Revisiting the rule of law', *New York University Law Review*, 64 (1989), 726–31.

Further reading

Alexander, L., ed.: *Constitutionalism: Philosophical Foundations* (Cambridge: Cambridge University Press, 2001).
Bellamy, R., ed.: *Constitutionalism, Democracy and Sovereignty: American and European Perspectives* (Aldershot: Avebury, 1996).
Dworkin, R.: *Taking Rights Seriously* (London: Duckworth, 1984).
Elster, J. and Slagstad, R., eds: *Constitutionalism and Democracy* (Cambridge: Cambridge University Press, 1989).
Finnis, J.: *Natural Law and Natural Rights* (Oxford: Clarendon Press, 1980).
Hutchinson, A. C. and Monahan, P., eds: *The Rule of Law: Ideal or Ideology* (Toronto: Carswell, 1987).
Kukathas, C.: *Hayek and Modern Liberalism* (Oxford: Clarendon Press, 1989).
Letwin, S. R.: 'Justice, law and liberty', in *Lives, Liberties and the Public Good*, ed. G. Feaver and F. Rosen (London: Macmillan, 1987), pp. 229–49.
Lucas, J. R.: *The Principles of Politics* (Oxford: Clarendon Press, 1966).
Lyons, D.: *Ethics and the Rule of Law* (Cambridge: Cambridge University Press, 1984).
MacCormick, D. N.: 'Spontaneous order and the Rule of Law: some problems', *Ratio Juris*, 2 (1989), 41–54.
Pennock, J. R. and Chapman, J. W., eds: *Constitutionalism* (New York: New York University Press, 1979).
Raz, J.: 'The politics of the rule of law', *Ratio Juris*, 3 (1990), 331–9.
Reynolds, N. B.: 'Grounding the rule of law', *Ratio Juris*, 2 (1989), 1–16.
Shapiro, I., ed.: *The Rule of Law*, *Nomos* XXXVI (New York: New York University Press, 1994).
Waldron, J.: 'The rule of law in contemporary liberal theory', *Ratio Juris*, 2 (1989), 79–96.
—: *The Law* (London: Routledge, 1990).

Chapter 23

Corporatism and Syndicalism

BOB JESSOP

Corporatism and syndicalism have a certain family resemblance as political philosophies and political projects committed to functional representation, but they also differ in other, more fundamental respects. Viewed as forms of economic and political interest intermediation, their crucial common feature is explicit organization in terms of the functions performed in the division of labour by those represented through such organizational forms. Such representation can be organized in various ways, however, which enables one to distinguish syndicalism from corporatism and their variant forms. Both historically and comparatively, syndicalism is simpler and so easier to define. Essentially it comprises an economic and political movement of the working class that is avowedly both anti-capitalist and anti-statist; and its ultimate goal is to abolish capitalism and the state in favour of a loose decentralized federation of worker-owned and worker-managed production units. Corporatism is harder to encapsulate in a sentence or two. But there is broad agreement that most corporatist projects accept the legitimacy (or, at least, medium-term inevitability) of both market forces and state institutions but also seek to limit, modify and guide their operation by linking them formally and substantively to functional representation.

The Core Meaning of Corporatism

Corporatism is a word with many meanings, reflecting the long history of the phenomena to which it refers and the range of economic, political and social interests that it mobilizes and affects. However, a broadly consensual core definition is that corporatism comprises an ongoing, integrated system of representation, policy formation and policy implementation that is organized in terms of the function in the division of labour of those involved. Other features, however important in practice, should be regarded as contingent. Examples include the ideological justification, the political legitimation, the specific functional bases and precise organizational forms of representation, the levels and sites on which corporatist structures are organized, the actual scope, purposes and mode of policy making, the particular forms of implementation, and the place (if any) of corporatism in the overall state system. For they all depend on the specific economy (local, regional, national or plurinational) in which corporatism develops and its place

in the world market, the specific political discourses and practices into which corporatism gets articulated, and the changing balance of forces involved in corporatist activities. The continually changing nature of corporatist institutions and practices excludes valid transhistorical definition or easy generalization from specific cases.

To illustrate some of the problems: (1) function could refer to income categories (capital, wage-labour, land ownership), fractions of capital, branches of the national economy (or other territorial unit of representation), role within the division of mental and manual labour, or some combination of these; (2) policies could be determined by corporatist leaders and/or through consultation with members of functional corporations; (3) policy implementation could be direct (through corporations themselves) and/or delegated to other economic or political organs; (4) the state could be an active, passive or silent partner in establishing and operating corporatist arrangements; and (5) corporatism could be separate from or linked to other forms of political representation, such as clientelism, one or more political parties, or a pluralistic pressure group system. These issues have generated much debate in corporatist programmes and scientific studies. It is also worth distinguishing corporatist policy regimes (institutionalized structures) and corporatist strategies (efforts to consolidate patterns of corporatist behaviour). For corporatist structures could well be 'dignified' rather than 'efficient', and corporatist strategies could simply be *ad hoc* responses to specific problems.

A Periodization of Corporatism and Corporatist Tendencies

Whether as a total ideology or as a core element in a broader ideological ensemble, corporatism has been advocated by an amazing range of theorists, ideologues and activists as well as for widely divergent motives, interests and reasons. It has been associated with: romantic, organic theories of the state; pre-Marxist, proto-socialists; Social Christians; fascist authoritarianism; secular modernizing nationalism; radical bourgeois solidarism; mystical universalism; internationalist functionalism; reactionary, pseudo-Catholic integralism; communitarian socialism; technocratic, procapitalist reformism; anti-capitalist revolutionary syndicalism; and guild socialism (Schmitter, 1974). However, as corporatist ideologies vary so much and their realization is so limited, it is more fruitful to explore actual examples of corporatism in various periods and conjunctures.

In general, corporatism has seen four main phases. It first arose as a politico-ideological critique of liberal capitalism. It reflected oppositional movements among feudal and traditional petty bourgeois classes (such as artisans and yeoman farmers), Catholic and/or other religious groups and some intellectual circles. They criticized the rampant individualism, social disorder and open class conflict that accompanied the transition to capitalism and its subsequent *laissez-faire* operation; and they demanded the restoration of social order through co-operation among professional and vocational associations. Inspired in part by medieval occupational guilds and estate representation and also oriented to a universalistic, harmonistic state and society, this organic corporativism was both reactionary and utopian. It could not halt the rise of a liberal capitalism that was mediated through anarchic market forces nor of a mass democracy based on individual suffrage.

The second phase was more practical than ideological in orientation. Its rise coincided with that of monopoly capitalism and growing competition among capitalist economies and it was linked with notions such as 'organized capitalism'. The dominant corporatist projects did not oppose capitalism as such, which was now consolidated and had begun to develop monopolistic and imperialistic tendencies, but aimed to avoid the risks that its logic would generate political revolution by organized labour and/or economic domination by foreign capital. Thus corporatist projects called for new forms of interest organization and/or societal regulation to defuse social unrest as well as for new institutional means and strategies to promote national economic competitiveness. This sort of corporatism was typically urged by firms and business associations but, especially in times of acute political crisis, prolonged war or immediate post-war reconstruction, the state also promoted it. How far labour movements were involved alongside business and the state depended on their economic and political orientation and the balance of economic and political forces.

The crisis-ridden inter-war period reinforced corporatist tendencies, leading to two outcomes. Some corporatist structures and strategies were imposed from above by fascist or authoritarian regimes to address acute economic, political and ideological crises. Others emerged from below (often with state sponsorship) to assist economic or political crisis management in more liberal democratic regimes. These patterns were so common in this period that one political theorist predicted that the 'twentieth century will be the century of corporatism just as the nineteenth century was the century of liberalism' (Manoïlesco, 1936). But these tendencies were not all-powerful and, indeed, corporatist projects were sometimes little more than an ideological cloak for other practices, especially in the more authoritarian regimes of this period.

The third wave emerged in the attempts at economic crisis management in liberal democratic regimes in the 1960s and 1970s. It usually took a tripartite form (involving business, organized labour and the state). Successful cases helped to stabilize societies oriented to economic growth and mass consumption by supporting already existing macro-economic measures with incomes, labour market and industrial policies. Thus corporatism was not intended here to replace the market economy or liberal parliamentary democracy. Instead, it was meant to supplement and reinforce them by legitimating new forms of state intervention that went beyond traditional methods of parliamentary and bureaucratic rule and by securing more effective representation for different producer interests than would be possible through a generalized pluralism or catch-all electoral parties. This third wave was often partial and tendential, intermittent and *ad hoc*, and nowhere did it involve continuous and fully institutionalized corporatist bargaining across all sectors of the economy and state. It was the relative novelty of this form of corporatism and its apparent compatibility with liberal democratic capitalism that prompted the social scientific interest in 'neo-corporatism' in the 1970s.

The fourth phase emerged in the 1980s and is still expanding. It involves a wider range of functional interests, including local authorities, scientific communities, professional associations, non-governmental organizations and social movements; and it extends beyond reactive economic and political crisis management to include proactive strategies for competitiveness and activities in many other issue areas marked by their inherent complexity and political sensitivity. Despite some research on 'Eurocorporatism',

reflecting European economic integration and the rescaling of statehood, such developments are less often discussed in corporatist terms (in part due to negative association with the crises of the 1970s and allegedly 'overmighty' unions). Instead they are analysed as public–private partnerships, networking, inter-organizational collaboration, regulated self-regulation, stakeholding, productive solidarities, productivity coalitions, learning regions, the social economy and associational democracy.

The Normative Bases of Corporatism

The first two incarnations of corporatism had clear philosophical foundations and explicit normative implications. They stressed the need for a hierarchically ordered moral community that would realize the will of God (in Catholic variants) or the national interest (in secular variants). Corporatist theorists opposed both the 'amoral liberalism' of free market capitalism and the egalitarian demands of a godless, unpatriotic socialism. To defeat liberal capitalism and egalitarian socialism alike, corporatists aimed to restore a solidaristic, organic society. This would involve: the re-moralization of capitalist private property by tying it to social obligations as well as rights; the reintegration of an alienated and militant proletariat by associating the duty of labour with social rights and dignity; and the organizationally mediated linking of both capital and labour into the wider social community through functionally based corporations that both expressed their economic interdependence and provided a real and continuing basis for political representation. Corporatist organizations had a key role in these respects. They would provide moral communities for capital and labour and replace the fictional and sporadic ties between effectively powerless electors and largely self-serving parliamentary deputies. But these organizations were never intended to be the final arbiters of social progress. For, while individual functional corporations would certainly be self-regulating, their activities must still be guided by an overarching concept of Christian duty or else a secular national leadership committed to the common good.

The third phase lacked a well-articulated social, political and moral philosophy distinct from social democracy, Christian democracy or embedded liberalism. This was due to the fascist connotations of corporatist philosophy and to the more 'technical' role of contemporary corporatist arrangements in promoting economic management and class compromise. The current, fourth phase partly reprises the second, with its twin emphases on tackling a perceived 'democratic deficit' in current political institutions and on mobilizing relevant private, public, third sector and civil society 'stakeholders' to develop more effective economic and social policies in an increasingly complex world. And, just as its advocates in the third, tripartite phase sought to distance their view of corporatism from the discredited period of authoritarian corporatism, current advocates often seek to distance themselves from organized labour by calling for wider participation in corporatist arrangements, and define the latter in such terms as 'new governance', social or territorial pacts, public–private partnership, the networked economy, and so on. The development of the 'open method of co-ordination' in the European Union is an important example of this new phase, linked as it is with

concerns about competitiveness, the 'democratic deficit', social cohesion, and the complexity of policy making and policy implementation in a global era (Zeitlin and Pochet, 2005).

The recurrence of corporatism, albeit in quite varied guises, is due to certain features of capitalist formations. These are: (1) the growing socialization of the forces of production despite continued private ownership of the means of production; (2) the dilemmas posed by the shared interest of producer classes and groups in maximizing total revenues and the conflict over their allocation; (3) the need for consultation among operationally and organizationally distinct but functionally interdependent forces about the economic impact of state policies and the political repercussions of private economic decision making; and (4) the problems generated by the nature of civil society as a sphere of particular interests. Each of these features provides important incentives to adopt functional representation to address the resulting problems for economic policy and political stability. Nonetheless corporatism cannot suspend the contradictions of capitalism or eliminate other conflicts in political regimes and these cause instabilities in the very corporatist tendencies that these features help to generate. This is an important part of the explanation for the recurrent cycles of the rise of corporatism, its fall and its return in a new guise (Jessop, 2002).

Corporatism as Seen by Social Science

Interest among social scientists in corporatism as a novel phenomenon and potential analytical concept boomed in the 1970s and 1980s. As interest grew, however, the concept became complex, unwieldy and over-extended. Conversely, as scientific interest came to focus on modern liberal democracies, 'corporatism' also lost its pejorative association with fascist and authoritarian regimes.

Schmitter gave the following agenda-setting definition:

> Corporatism can be defined as a system of interest representation in which the constituent units are organized into a limited number of singular, compulsory, non-competitive, hierarchically ordered and functionally differentiated categories, recognized or licensed (if not created) by the state and granted a deliberate representational monopoly within their respective categories in exchange for observing certain controls on their selection of leaders and articulation of demands and supports. (Schmitter, 1974)

He also contrasted two basic forms of corporatism according to whether it was imposed from above or emerged from below. Statist corporatism is imposed by the state. It occurs in centralized, bureaucratic systems, with purely plebiscitary or even non-existent elections, weak single-party systems, and inaccessible authorities with a limited recruitment base; and it often suppresses class, ethnic, linguistic and/or regional differences. Conversely, societal corporatism emerges from below as a form of economic crisis management and general economic and social bargaining. It is embedded in political systems with relatively autonomous, multi-layered territorial units; open, competitive electoral processes and party systems; ideologically varied, coalitionally based

governments; and is compatible with a plurality of social cleavages. Schmitter also noted that, whereas state corporatism is anti-liberal, usually associated with delayed capitalist development, and forms part of an authoritarian, neo-mercantilist state, societal corporatism is post-liberal, well suited to advanced capitalism, and associated with democratic welfare states.

Societal corporatism was also defined as: a form of policy intermediation based on organized labour, business associations and the state; a third species of political economy between capitalism and socialism; a distinctive type of state; a pattern of industrial relations; a partial structure or strategy linking different societal spheres; a form of trade union incorporation; and system of private interest government. There is also an extensive literature on statist or authoritarian forms of corporatism, notably in Spain, Portugal and Latin America (see Collier, 1980; Williamson, 1989); and on corporatist patterns in some developmental states in East Asia (Weiss, 1998).

Social scientists studied the genesis, specificities and dynamics of different examples of societal or liberal corporatism. It soon became apparent that corporatism could exist on one or more levels of the economy (micro, meso and macro); could be limited to specific sectors or provide the basis for more general concertation; need not be confined to the economy in the narrow sense of the primary or secondary sectors but could also extend into the service sectors and/or welfare, health, education, scientific and other subsystems; could be linked to local, regional and supranational as well as national states; could be firmly institutionalized or take the form of temporary strategies; and, in almost all its manifold forms, displayed chronic tendencies towards instability. Regarding the last of these features, research showed that the conditions favouring stability included strong, centralized industrial unions; strong, centralized employers' organizations, and a state which has the capacities to intervene in economic management but also depends on co-operation from its social partners (Notermans, 2000).

Discussion of the political aspects of corporatism has also become more complex. Studies suggest that corporatism can compensate for parliamentary crisis or instability by reducing governmental overload and/or securing extra support; undermine the legitimacy of parliamentarism by providing alternative channels for interest intermediation and by-passing political parties; or function effectively only through close links to political parties, parliament and the administration. It also seems that political stability and legitimacy are hard to secure through corporatist arrangements alone and must be complemented by other political agencies and mechanisms. More generally it has become clear that, as a political form, corporatism has *a priori* consequences for the balance of forces; it is best seen as a structurally and/or strategically selective form of political organization whose effects depend on organizational, strategic and conjunctural factors. There is little evidence for the Marxist claim that corporatism unambiguously favours capitalist interests and much evidence that corporatism can provide, for a time, a real basis for securing and consolidating working-class gains within capitalism. This partly explains the attempts of neoliberal regimes to roll back not only these gains but also, more fundamentally, to dismantle tripartite corporatist institutions.

It would also seem that strong corporatist structures helped to stabilize the post-war mode of economic growth (by moderating its tendencies towards stagflation) and to

manage the initial reaction to its growing crisis in the 1970s. Where the preconditions for stable corporatism were absent, however, corporatist strategies failed to secure favourable trade-offs between growth, jobs and price stability and generated severe conflicts in corporatist associations (especially trade unions). As national economies have become more open and the state's primary economic concerns have shifted from macro-economic management to supply-side innovation and international competitiveness, however, the old neo-corporatist structures and strategies seemed less viable. Nonetheless, the usefulness of some forms of representation based on function within the division is reflected in the development of the fourth phase of corporatism and the emergence of new justifications and descriptions for this phenomenon.

Syndicalism

Syndicalism could be characterized as 'corporatism without capital or the state'. Essentially, it involves a decentralized system of workers' control based on decentralized, collective ownership of economic units and a loose political federation of self-managing economic organizations. In organizing for such direct and exclusive workers' control, revolutionary syndicalists rejected all forms of institutionalized political participation and any alliance with non-proletarian class forces. Instead, syndicalist activities should be concentrated at the point of production and aimed at improving the position of workers and building class solidarity; such everyday struggles would eventually ensure the success of the ultimate syndicalist weapon – a spontaneous general strike. However, although it enjoyed some influence from the 1880s to the First World War, syndicalism was increasingly marginalized by socialism, communism and more orthodox trade unionism. Thereafter it survived both as a political theory and project mainly through anarcho-syndicalist and 'council communist' currents and left-wing think tanks calling for workers' control. Moreover, even during its heyday, its real impact was largely confined to countries such as France, Italy and Spain. These all had strong anarchist traditions, trade unions with a substantial artisan and/or migrant peasant base, and only limited experience of institutionalized collective bargaining. Syndicalism has seen a limited post-war revival with small-scale experiments on the capitalist semi-periphery (such as those in the Mondragon region of Spain or the self-managing *kibbutzim* of Israel); and the much larger-scale Yugoslavian attempt in the socialist semi-periphery to move stepwise to workers' self-management as an alternative to both the centrally planned economy and capitalism. Until the end of the Yugoslavian experiment, however, this operated under overall state guidance of the economy.

References

Collier, D., ed.: *The New Authoritarianism in Latin America* (Princeton, NJ: Princeton University Press, 1980).
Jessop, B.: *The Future of the Capitalist State* (Cambridge: Polity, 2002).
Manoïlesco, M.: *Le Siècle du corporatisme* (Paris: Felix Alcan, 1936).

Notermans, T.: *Money, Markets, and the State* (Cambridge: Cambridge University Press, 2000).
Schmitter, P. C.: 'Still the century of corporatism?', *Review of Politics*, 36 (1974), 85–121.
Weiss, L.: *The Myth of the Powerless State* (Cambridge: Polity, 1998).
Williamson, P. J.: *Corporatism in Perspective* (London: Sage, 1989).
Zeitlin, J. and Pochet, P., eds: *The Open Method of Coordination in Action* (Brussels: P.I.E.-Peter Lang, 2005).

Chapter 24

Criminal Justice

NICOLA LACEY

Over the last twenty years there has been an explosion of interest in 'criminal justice', generating a wealth of research incorporating law, philosophy, political theory, sociology and other disciplines. The fascination of criminal justice flows from the cultural prominence of criminalization as a form of social control. The news media in Australia, Britain or the United States provide plentiful evidence of the extent to which crime, fear of crime, government criminal justice policy and the activities of the more visible enforcement agencies such as the police preoccupy many contemporary Western societies. At the international level, too, criminal justice is increasingly salient. Moreover, the status of criminal justice as a particularly coercive and costly governmental repertoire claims our attention. Yet the diversity of practices encompassed within the notion of 'criminal justice', and the variety of practical, philosophical and political questions which they raise, make criminal justice an elusive subject. All too often, the general 'theories of criminal justice' which purport to make sense of the concrete practices illuminated by empirical research turn out to be too abstract and/or too narrow in focus to fulfil that promise. The purpose of this chapter is to provide a framework which might enable us to make sense of criminal justice without imposing an unrealistically rigid or unduly circumscribed model on the complicated processes with which we are concerned.

Characterizing Criminal Justice

At first sight, it seems relatively easy to define 'criminal justice': it is simply a convenient shorthand for the various social institutions and practices concerned with identifying and responding to actual and suspected breaches of criminal law. However, this very definition immediately raises a number of questions.

Crime and criminal justice

First, there is a cluster of questions about what, if anything, unifies the category 'crime': about what is encompassed within criminal law, and about how 'breaches' of criminal law are interpreted. As a starting point, we could say that criminal law proscribes

behaviour which is regarded by lawmakers as wrong, harmful or otherwise socially undesirable. But this tells us little about what distinguishes wrongs for which lawmakers resort to criminal prohibition from those allocated to civil law or non-legal regulation. Nor does it give any hint of the complex factors that influence both the initial definition of something as a crime and its modification in enforcement practice. It is tempting, but misleading, to think of the crime to which criminal justice agencies purport to respond as an unproblematic 'given', as opposed to the product of a series of interpretive decisions. These decisions are made as much by unofficial as by official individuals and agencies, and they construct as criminal such a wide variety of kinds of behaviour that it is difficult to find any unifying thread.

Crime is the product of many layers of interpretation, and this 'social construction' of crime is of relevance to both the practical operation and the social significance of the criminal process (Maguire et al., 2007). Consider the attitudes of both ordinary citizens and the police to what makes people commit offences and to what count as 'real' or important crimes, and citizens' beliefs about what kinds of reports (domestic violence as compared with burglary), and reports from what kinds of people (a white middle-class householder as compared with a young black person living in temporary accommodation), the police will take seriously. These attitudes have direct effects on citizens' reporting and on police investigative and recording practices. These practices in turn shape the partial enforcement reflected in the official crime statistics; the statistics feed back into the dominant social conception of the 'crime problem' with which criminal justice is concerned and, in a self-reinforcing cycle, the dominant conception flows on into reporting and recording practices. These are merely some of the ways in which the articulated legal definitions of crimes are modified in interpretive enforcement practice.

Criminal justice as discrete?

Secondly, our initial definition raises the question of what, if anything, holds criminal justice together as a discrete phenomenon. This question arises at two levels. First, it arises in terms of the *approach* of criminal justice scholarship. Some texts on criminal justice proceed as if it were a distinctive or coherent discipline in its own right, as criminology has sometimes been taken to be. However, it seems more plausible to think of criminal justice as held together rather in terms of its subject matter, in relation to which a variety of descriptive and normative intellectual projects are carried forward, employing the tools of a wide set of disciplines within the humanities and social sciences.

Hence, secondly, the question of discreteness arises in terms of the *subject matter* of criminal justice scholarship. Given the open-ended nature of crime, which encompasses a vast array of different activities, and given the variety of different agencies and practices involved in 'identifying and responding to actual or suspected breaches of criminal law', is it appropriate to start from the assumption that all are involved in the same enterprise? The paradigm 'response' to identified offenders is punishment. But practices of punishment are themselves varied, and the ideas informing them include not only distinctively punitive principles such as that of giving the offender his or her 'just deserts' but also quasi-medical or welfare-oriented notions of 'treatment' or 'rehabilitation' as

well as practices of 'restorative justice' which are arguably not punitive in their essence (Braithwaite, 1989). Can cautioning, conditional discharges, probation orders, fines, suspensions of a licence, family group conferences and imprisonment all be regarded as part of a coherent category of punishment – as penal in the same sense?

On one view, it is possible to conceive criminal justice as a 'system', or at least as an integrated set of processes forming one overarching, coherent social practice identified in something like the general terms of our initial definition. Viewed in another way, however, it looks more like a diverse array of agencies and activities, all operating with their own values and goals, employing different kinds of discretionary power. For example, even a single agency such as the police has different sorts of responsibility, ranging at one extreme from quasi-military functions of keeping order, through to mundane administrative tasks and social welfare work at the other. These varied tasks are mapped onto a particular professional culture and a hierarchical command structure, which are also important to understanding how priorities among tasks are determined and how those undertaking the tasks view their roles. We cannot assume, for example, that the goals and values of rank-and-file police officers are the same as those of people in higher positions, and this makes a difference to how policies determined at one level of the hierarchy are understood and implemented at another.

Criminal 'justice'?

Finally, our initial definition prompts reflection on the significance of the word 'justice'. It could be argued that the inhumanities perpetrated within the criminal processes of most societies render the idea of criminal 'justice' inappropriate. Nonetheless, the word 'justice' is highly significant, for it marks the fact that criminal justice aspires to moral and political legitimacy. The conceptualization in terms of criminal 'justice' therefore has both sociological and normative significance. Sociologically, it signifies that the power wielded within the criminal process always has to be concerned with its own legitimation. Particularly in a society marked by persistent, patterned inequalities which are reproduced and exaggerated by state punishment, criminal justice is constantly at risk of being seen as cruel or oppressive, with consequent risks to the background support and compliance on which its stability and effectiveness depend. At the international level, inequalities of power raise yet more vivid issues (Simpson, 2004). Whilst criminal justice is ultimately coercive, its exercise depends at almost every level on many forms of co-operation and consensus. Without these, the resort to coercion is liable to become both more repressive and less effective, because it serves to reinforce lines of social division which are themselves implicated in the production of certain kinds of crime. For example, it is widely accepted that the collapse of police–community relations in many urban areas of Britain at the time of the inner city disorders of the early and mid-1980s was both a product and a cause of police resort to 'hard' methods of law enforcement such as patrol by armoured vans and strategies of mass arrest (Kinsey et al., 1986). Much the same argument doubtless applies to the policing of contemporary terrorism, for the use of repressive methods has the capacity to reinforce the very mistrust and sense of alienation from the criminal process which had made them appear necessary. They may therefore, even from the point of view of the police themselves, be counterproductive.

Normatively, the reference to 'justice' signifies the substantive ideals in terms of which criminal justice processes might be regarded as legitimate. Here again, however, we are met with a bewildering diversity of relevant questions. Is 'criminal justice' concerned with justice to offenders and suspected offenders, or to victims of crime, or to society as a whole? If it is concerned with all of these, how do these ideas of justice relate to each other and what happens when they come into conflict? Is there anything distinctive about 'criminal justice' as opposed, for example, to 'social' or 'distributive' justice in relation to goods such as wealth and political power? Is it appropriate to regard social justice as a matter of the fair distributions of rights or other entitlements, or is it concerned equally or alternatively with fostering relations of reciprocity and an ethic of care or mutual responsibility (Gilligan, 1982)?

If we regard 'criminal justice' as to some extent discrete, this suggests that there can be 'criminal justice' even in an otherwise unjust national or global society: criminal justice practices may contribute to the overall balance of justice in society even if they also inevitably perpetrate injustices. Yet in a society in which people are very differently situated in relation to the proscriptions of criminal law, and in which factors such as race, ethnicity, nationality, class, gender and age widely affect not only life chances in general but also official and unofficial beliefs about people's predispositions to break criminal laws, the impact of criminal justice is virtually certain to be very unequal. Most people would agree that persistent patterns of unequal impact raise, at the very least, important *prima facie* questions of social justice. Here we touch on questions which have preoccupied scholars who have sought to produce general 'theories of criminal justice' or 'penal philosophies'. We now need to consider what such theories have to offer at either a normative or an explanatory level.

A General Theory of Criminal Justice?

One common suggestion is that we can only make sense of criminal justice if we are equipped with a 'general theory' – an account which organizes the diversity that we have encountered in a systematic way. Whilst such theories differ in the extent to which they purport to be explanatory or normative, even the primarily explanatory theories are informed by implicit ideas of the values which criminal justice processes seek to promote and which constrain the exercise of criminal justice power. Conversely, the normative theories are informed by an implicit descriptive understanding of criminal justice. Among these theories, two sets of ideas stand out and call for specific consideration.

On the first kind of view, criminal justice is indeed all about *doing justice*, and 'justice' in a distinctive sense (von Hirsch, 1976). The background idea is that members of a society owe each other reciprocal obligations to forbear from breaking criminal laws – laws which are assumed to be in the antecedent interest of all, because they protect some of the most important, widely recognized interests of individuals and of the polity itself. On this view, the practice of attempting to identify and punish offenders is integral to the pursuit of just social relations, for only through punishment of those who have taken an unfair advantage by breaking the law can the just relations of the pre-existing moral equilibrium be restored, and the interests of both victim and society given due

recognition. This sort of argument is associated with theories of punishment which emphasize its symbolic or expressive features, and with those which are essentially deontological and backward-looking, seeking to explain the value of punishment in terms of relationships of justice structured around retribution, desert or reparation. As far as the criminal process is concerned, such a view tends to be associated with a commitment to the importance of 'due process' – that is, of procedural safeguards such as the presumption of innocence and the requirement that offenders have some substantial element of responsibility for their breaches of criminal law, which can thus be meaningfully conceived as 'unfair' advantages.

Whilst the 'justice' approach does conceive criminal justice as a relatively discrete sphere, it also contains seeds that undermine this separateness; for the idea that the justice of punishment is independent of broader social justice is called into question by the obvious fact that the weight of the burden of complying with criminal law is directly related to the social situation of the offender. To take an obvious example, the starving person who steals a loaf of bread cannot meaningfully be said to have taken the same kind of unfair advantage as the wealthy fraudster. This account therefore raises in an acute form the question of how penal practice in an unjust society can contribute to social justice in a broader sense (Murphy, 1973).

The continuity of criminal justice and broader social justice is more explicit in the other main approach to theorizing criminal justice. On this view, criminal justice power is legitimated in terms of its capacity to secure beneficial consequences. The most influential version of this view is the *utilitarian* theory according to which the sole motivation and good of human beings is the pursuit of pleasure or preference-satisfaction and the avoidance of pain or preference-frustration (Bentham, [1789] 1982). Whilst both punishment itself and the costs of the criminal process are, on this view, *prima facie* evils, criminalization and punishment may be justified wherever they counterbalance those evils and serve to maximize human happiness overall. This is typically by reducing the level of pain-producing offending, whether by individual or general deterrence, incapacitation, reform of offenders, moral education, prevention of resort to less utility-maximizing methods such as private vengeance, the assuagement of victims' grievances, or general education.

On this view, the pursuit of social justice is essentially an instrumental enterprise, in which the effects of various means of dealing with social disutilities and promoting social utilities are weighed up. Whilst 'criminal justice' may be seen as a distinctive *means* of pursuing social good, the terms in which the good that it pursues is to be measured are just the same as those to be applied to, say, the education system or the handling of the economy. Notably, in terms of the criminal process, the commitment of such consequence-oriented, forward-looking approaches to procedural safeguards such as the presumption of innocence will be entirely contingent upon their contribution to the effectiveness of the process as a whole. This does not mean that utilitarian approaches eschew procedural safeguards, for procedural safeguards sometimes contribute directly to utility. Furthermore, efficacy is dependent on a baseline of legitimacy, and the latter is in turn dependent on certain procedural principles which have an important place in the social conscience. Thus, whilst a hard-nosed utilitarian might dream of educating the citizenry out of such 'prejudices', utilitarian systems must learn to accommodate them as long as they exist.

This is not the place to evaluate the normative recommendations of these theories or of the various syntheses of them which have been offered by philosophers of punishment (Hart, 1968; Lacey, 1988). Two things only need to be noted at this stage. First, when read as explanatory theories about the criminal process, each of these general approaches has a place. The notion that criminal processes are geared to 'doing justice' is one which helps to account for both a number of actual features of criminal processes and the social meaning – the symbolic and practical significance for members of a society – of having a criminal justice system. In the case of many kinds of offence (murder, assault, theft, driving while intoxicated) and many penal practices (imprisonment, fining), it does seem plausible to say that what might be called a 'moral analogy' holds. In other words, criminalization and punishment reflect a collective *judgement* about what is not acceptable, and enunciate a general standard of social behaviour which is assumed at some level to be shared and which constitutes a significant expression of the identity of the social order. Conversely, the utilitarian view helps to account for the important sense in which criminal justice both is and is seen as a set of practices which responds to certain social 'problems', generating an array of relatively morally neutral offences regulating issues such as health and safety and activities such as driving. The success or failure of these regulatory offences is to be judged (at least in principle) in primarily instrumental terms, such as relative costs and impact on levels of offending and re-offending (Lacey et al., 2003). Hence it is no surprise that the most influential contributions to contemporary penal philosophy seek to draw on both deontological and consequentialist traditions, integrating their insights within a broader political-theoretic framework such as republican theory or a conception of the morally communicative and community-sustaining functions of criminal justice (Braithwaite and Pettit, 1990; Duff, 2001).

Equally obviously, however, even some combination of these two approaches fails to give a complete account of what 'criminal justice' is all about. In order to fill the gaps, we need to know a great deal more about how the 'wrongs' or 'harms' associated with 'crime' are defined in a society. This means having not merely a normative theory of criminalization (Feinberg, 1984–8), but also a sense of how the 'crime problem' is constructed in particular societies (Hillyard et al., 2004); about the social, political and economic conditions which obtain; and about the more detailed practices and the values, goals and occupational culture of those who administer social practices relevant to criminal justice. We need to know, too, about the social distribution of offending behaviour which meets with official response, for this is likely to have an impact on the meaning which punishment can have. If penal power is consistently invoked in relation to certain groups within the population – for example, young members of certain ethnic groups – in ways which systematically benefit other groups to a far greater extent, this will have clear implications for both the legitimacy and the efficacy of criminal justice. In particular, it will affect whether punishment can have any socially reintegrative effects, drawing offenders back into the group of those who regard criminal justice power as legitimate as opposed to marking and reinforcing their exclusion. It is the challenge of how to link up our very general theoretical understandings with these and other realities of social practice that has so often eluded those committed to theorizing criminal justice.

Criminal Justice and Social Order

The social construction of crime and consequent relevance of criminological issues to criminal justice, the questionable disciplinary and practical discreteness of criminal justice, and the difficulty of identifying the reference of its appeal to 'justice' all make it hard to fix on an appropriate starting place for thinking about criminal justice. In the light of the different aspects of criminal justice as a set of practices and as a subject, is it possible to improve on our original formulation of criminal justice as the study of the various social institutions and practices concerned with identifying and responding to actual and suspected breaches of criminal law? Could a different formulation suggest a more productive approach to the development of a theoretical framework which would not exclude potentially relevant issues?

One attractive possibility is to shift our perspective slightly, and to reconceive criminal justice, in the sense of the practices of identifying and responding to offenders, as a related but not entirely co-ordinated set of practices geared to the construction and maintenance of social order. At a general level, criminal justice could be seen as an instrumental and expressive regulatory practice which is legitimated, in a broadly liberal society, by its avowed commitment to the protection of certain interests which are regarded as of fundamental importance to all members of society, and which operates by means of a relatively distinctive – but in important respects porous – set of procedures and publicly endorsed coercive apparatuses. This is not to say that criminal justice practices actually do fulfil these liberal egalitarian functions, nor even that they are intended to do so by those with most influence over their development and exercise. It is rather to identify this conception as the core of criminal justice's capacity to *present itself* as legitimate: as its *ideology*. In other words, criminal justice is concerned with social order not exclusively or even primarily in any instrumental, straightforwardly empirical sense, but rather with social order in a symbolic sense: with a society's sense of itself as a cohesive, viable and ethical entity.

For brevity, I shall refer to criminal justice conceived in this way as a *social ordering practice*. The notion of 'social ordering' has advantages over the more usual 'regulation' or 'social control' because both regulation and control suggest an instrumentalism which marginalizes the emotive, symbolic aspects of punishment (Hampton, 1984). Furthermore, social control conjures up an image of repression whereas, although criminal justice undoubtedly has repressive aspects, we need to leave room for the recognition that parts of criminal justice practice can have positive aspects. That is, notwithstanding the injustice perpetrated and reinforced by penal practice in an unjust society, a certain core of criminal justice practice may nonetheless achieve purposes which would otherwise be either left unfulfilled (for example, the recognition of victims' legitimate grievances) or fulfilled by even less attractive means (for example, by resort to private vengeance).

This shift in perspective has several advantages. First, it serves to emphasize the continuity between criminal justice and other institutions such as education, religion, childrearing, conventional morality, civil law. Secondly, by being explicit about what connects diverse criminal justice practices, it provides a substantive basis for criminal justice studies and an analytic framework which can help to identify and explain the

way in which changes or attempted reforms in one part of the process can have (often unintended) implications and effects in other parts. Thirdly, it connects the normative and the explanatory: criminal justice, on this conception, simply *is* a practice which is informed by certain evaluative (not necessarily themselves coherent, let alone consistently recognized) ideals, and which is therefore susceptible of critique on the basis of its own legitimating ideas as well as on the basis of values external to it. Furthermore, the impulse to attempt to justify criminal justice ordering is underpinned by what we understand about the nature of the practice – its coerciveness, its connection with state power, its brutalizing and socially divisive effects, its economic costs. This starting point reveals the philosophical and sociological enterprises to be inextricably linked: without an understanding of how criminal justice practices work, 'theories of criminal justice' are bound to be misdirected. Yet the converse is equally true: everything we see as a problem, an abuse or a dysfunction in criminal justice is only so relative to an evaluative framework. So normative discourses constructed in terms of equality, oppression, the limits of state action, human rights and so on are integrally related to sociological analyses of criminal justice.

Finally, the suggested focus shifts the critical spotlight from specific offences, offenders and penalties to the broader question of how societies generate the conditions for their own continued existence – what serves to maintain them, and the role of criminal justice practices within that framework (Durkheim, 1984). It thus locates the general project of criminal justice scholarship within the umbrella of social theory, and constructs criminal justice as to do with societies and their members generally rather than with offenders and officials in particular. This brings with it a potentially powerful set of conceptual tools which can help us to develop the kinds of middle-order theoretical frameworks which we need if we are to arrive at understandings that are reasonably systematic yet not blinkered by the precepts of a too-constraining normative or explanatory model.

Three factors are of particular importance. *First*, approaching criminal justice as a social ordering practice dictates that we pay equal attention to its instrumental and symbolic features. In other words, we must attend not only to criminal justice practices themselves but also to the meanings they have for their participants, their subjects and their observers, including their appeal to emotional as well as rational attitudes. This entails that quantitative empirical research and official statistics need to be supplemented by qualitative, agent-centred and institutionally focused studies. Indeed, the significance of statistical work is more complex than is sometimes noted. For example, changes in crime or reporting rates cannot be taken at face value, but have to be *interpreted* in the light of the broader factors that have been emphasized in this entry. Needless to say, qualitative research has its own methodological complexities: agents' accounts cannot necessarily be taken at face value, and have to be appraised critically in the light of our understanding of institutional and cultural context. The study of criminal justice, like that of all human practices, is an enterprise which seeks to interpret a set of social processes that are themselves engaged in interpretive construction.

Furthermore, this approach suggests that the instrumental and the symbolic cannot be separated neatly: the material effects of particular practices will depend on their meaning for those subject to or observing them. For example, the idea of criminal justice as enunciating quasi-moral judgements in fact constrains which policies can be

instrumentally effective. A too blatantly managerial use of criminal justice power may be ineffective if it fails to command the support of a critical mass of citizens or officials who see the relevant norms as expressing quasi-moral judgements. Similarly, a certain kind of instrumentalism – for instance, the image of the government as an 'efficient manager of the criminal process' – itself constitutes (contrary to its value-free, technocratic self-conception) an *ideology* of what criminal justice is about, and one which can feed into and alter the attitudes and practices of those involved in the process.

Secondly, this social theory framework dictates that we think about the contributions both of individuals and groups of agents and of broader institutions and social structures to criminal justice. Clearly, the actions and decisions of individuals and groups are of major relevance to every level of the criminal process. Yet if we are to understand them we need to attend to the ways in which decision-making is embedded in underlying features of the social order: relatively concrete institutions (such as courts or truth commissions); powerful discourses (such as law); patterns of social organization and prejudice (such as class, gender or racial or ethnic division); locally dominant ideologies (such as aspects of professional culture within the police). These underlying 'structures' both constrain and facilitate human choices, just as our choices and decisions in turn feed back into the constitution of the underlying institutional constraints. There is thus a constant movement back and forth between 'agency' and 'structure' – a movement which belies the idea that the two are dichotomous. The interconnection of the individual and the institutional levels, which can be obscured by the rather static and monolithic resonance of the term 'structure', is well captured by the term 'practice': a relatively structured field of actions of agents or groups of agents, which can only be understood in terms of the assumptions, values, goals, interpretive frames which inform the agents' actions and infuse the surrounding context in which those actions take place.

A *third* methodological advantage of this framework is that it allows us to see that coercive power such as that associated with criminalization and punishment is not only held and exercised by criminal justice agents and agencies, but needs additionally to be understood as inhering, less tangibly but no less influentially, in the ideologies, discourses or value systems which inform criminal justice practices, and in the discourses in which those ideologies are expressed (Foucault, 1977). This is important because it helps to explain the limited success and unintended effects which often characterize efforts at penal reform. It can also help us to understand the complexity of urgent political projects, such as the rendering of criminal justice power more transparent and accountable. If power inheres in, for example, the discursive construction of 'criminals', of suspect populations and of 'real crime' in police culture or judicial ideology, the imposition of regulatory legal frameworks geared to the structuring of policing or sentencing discretion to achieve a more even-handed practice is likely to be ineffective or even counterproductive, for it fails to engage with the deeper factors that underpin policing, prosecution or sentencing practice.

This broad view of power also helps to displace, finally, the simplistic assumption that criminal justice is all about *punishment*. For the constellation of practices associated with criminal justice is engaged not merely in coercion via the threat of punishment, but connects with a multifarious set of disciplinary techniques – social work, psychiatry, education, sexuality – which subtly propagate and 'enforce' a wide variety of social

norms (Cohen, 1985). The details of criminal justice power, as increasingly revealed in research, have an ordering significance far beyond the impact of the obviously normative and coercive aspects of the process (Carlen, 1983). A sensitivity to the diversity of modes and sites of power at national, supranational and private levels is therefore crucial if we are to make sense of the complex realities of criminal justice (Johnston and Shearing, 2002).

References

Bentham, J.: *An Introduction to the Principles of Morals and Legislation* (1789), ed. H. L. A. Hart and J. H. Burns (London: Methuen, 1982).

Braithwaite, J.: *Crime, Shame and Reintegration* (Cambridge: Cambridge University Press, 1989).

Braithwaite, J. and Pettit, P.: *Not Just Deserts: A Republican Theory of Criminal Justice* (Oxford: Oxford University Press, 1990).

Carlen, P.: *Women's Imprisonment* (London: Routledge and Kegan Paul, 1983).

Cohen, S.: *Visions of Social Control* (Cambridge: Polity Press, 1985).

Dubber, M. D.: *The Police Power* (New York: Columbia University Press, 2005).

Duff, R. A.: *Punishment, Communication and Community* (Oxford: Oxford University Press, 2001).

Durkheim, E.: *The Division of Labour in Society*, trans. W. D. Halls (London: Macmillan, 1984).

Feinberg, J.: *The Moral Limits of the Criminal Law* (Oxford: Oxford University Press, 1984–8).

Foucault, M.: *Discipline and Punish*, trans. A. Sheridan (Harmondsworth: Penguin, 1977).

Garland, D.: *Punishment and Modern Society* (Oxford: Oxford University Press, 1990).

Gilligan, C.: *In a Different Voice* (Cambridge, Mass.: Harvard University Press, 1982).

Hampton, J.: 'The moral education theory of punishment', *Philosophy and Public Affairs*, 13, 3 (1984), 208–38.

Hart, H. L. A.: *Punishment and Responsibility* (Oxford: Clarendon Press, 1968).

Hillyard, P., Pantazis, C., Tombs, S. and Gordon, D., eds: *Beyond Criminology: Taking Harm Seriously* (London: Pluto Press, 2004).

von Hirsch, A.: *Doing Justice* (New York: Hill and Wang, 1976).

Johnston, L. and Shearing, C.: *Governing Security* (London: Routledge, 2002).

Kinsey, R., Lea, J. and Young, J.: *Losing the Fight Against Crime* (Oxford: Blackwell, 1986).

Lacey, N.: *State Punishment* (London: Routledge, 1988).

Lacey, N., Wells, C. and Quick, O.: *Reconstructing Criminal Law*, 3rd edn (Cambridge: Cambridge University Press, 2003).

Maguire, M., Morgan, R. and Reiner, R., eds: *The Oxford Handbook of Criminology*, 4th edn (Oxford: Oxford University Press, 2007).

Murphy, J.: 'Marxism and retribution', *Philosophy and Public Affairs*, 2, 3 (1973), 217–43.

Packer, H.: *The Limits of the Criminal Sanction* (Stanford, Calif.: Stanford University Press, 1968).

Simpson, G. J.: *Great Powers and Outlaw States* (New York: Cambridge University Press, 2004).

Chapter 25

Democracy

AMY GUTMANN

Although the root meaning of democracy is simple – 'rule by the people' from the fifth-century BC Greek *demokratia* – and democracy is almost universally commended in contemporary politics, the ideal of democracy is complex and contested, as are its justifications and practical implications. Democracy is sometimes identified narrowly with majority rule (Hardin, 1990, p. 185), and other times broadly to encompass all that is humanly good (Macpherson, 1973), but neither view is adequate to an understanding of democracy as a social ideal. Majoritarian decision making may be a presumptive means of democratic rule, but it cannot be a sufficient democratic standard. Other standards – concerning who rules, by what procedures, over what matters, within what limits, and with what degree of deliberation – have from the beginning been implicated in the ideal of democracy as rule by the people, and continue to be entailed by the public aspirations of democratic and democratizing societies.

The contrastingly broad identification of democracy with the complete human good is similarly unhelpful in presuming away increasingly important problems that have long animated advocates of democracy and their critics: for example, whether the people should be permitted to rule on complicated matters even when they lack the knowledge of experts or whether the freedom of a few should be limited for the sake of authorizing the many to shape social policy. A democratic ideal, no matter how inclusive, cannot credibly lay claim to maximizing all the human goods at issue in such political choices.

What does democracy aspire to achieve? Although answers vary according to the types of democracy discussed below, several general justifications for democratic rule can be identified. All types of democracy presume that people who live together in a society need a process for arriving at binding decisions that takes everybody's interests into account. One common justification for democratic rule allies the premiss that people are generally the best judge of their own interests with the argument that equal citizenship rights are necessary to protect those interests. There is no better way to minimize the abuse of political power, democrats claim, than to distribute it equally. Another common, and complementary, justification is that popular rule expresses and encourages the autonomy, or self-determination, of individuals under conditions of social interdependence, where many important matters must be decided collectively (Dahl, 1989, chs 6 and 7).

Many democratic theorists also argue that democracy is instrumental to human development insofar as it encourages people to take responsibility for their political lives. Others argue that democracy represents fair terms of a social contract among people who share a territory but do not agree upon a single conception of the good. On this common contractarian view, democracy consists of a fair moral compromise, although the precise terms of that compromise vary with different democratic conceptions. Democratic theorists argue that even if democracy cannot live up to its aspirations, its promise on each of these counts is greater than that of any non-democratic government. The strongest if not most inspiring justification of democracy, well expressed by Winston Churchill, is that it is the worst form of government except all the others.

But what form of government is democracy? Is it only a form of government? The five types of democracy considered below, each more complex than majority rule without claiming to be all inclusive, offer theoretically and practically influential answers. After briefly examining Schumpeterian democracy, populist democracy, liberal democracy, participatory democracy, social democracy and deliberative democracy, we evaluate two famous paradoxes that are said to apply to all forms of democracy, and conclude by discussing an inescapable disharmony of democracy.

Schumpeterian Democracy

Among the least inclusive, and least inspiring, conceptions of democracy that have gained currency in contemporary political theory is Joseph Schumpeter's understanding of democracy as 'that institutional arrangement for arriving at political decisions in which individuals acquire the power to decide by means of a competitive struggle for people's vote' (Schumpeter, 1943, p. 269). At the same time as this understanding recognizes the centrality of political competition in democracy, it denies that the democratic process of competing for people's vote has any substantive value. And no wonder, since by Schumpeter's understanding, South Africa in 1992 (with an exclusively white electorate) is democratic and Stalinist Russia would have been if only members of the Communist Party could vote.

Insisting on procedural minimalism entails forsaking democracy as an ideal. As Robert Dahl points out, Schumpeter's understanding 'leaves us with no particular reason for wanting to know whether a system is "democratic" or not. Indeed, if a demos can be a tiny group that exercises a brutal despotism over a vast subject population, then "democracy" is conceptually, morally, and empirically indistinguishable from autocracy' (Dahl, 1989, pp. 121–2).

It is a small step from Schumpeter's understanding to the conclusion that only a fool or a fanatic would sacrifice any significant values to democracy. But this conclusion says less about the limited value of democracy than about the importance of understanding democracy as more than a mere political procedure. The value of democracy is limited, but its limits can be understood only in light of a more robust and substantive conception than Schumpeter's.

Populist Democracy

Many contemporary political theorists who consider democracy first and foremost a political procedure nonetheless reject Schumpeter's conclusion in favour of the view that there is something especially valuable about democratic procedures, the value of popular as contrasted with unpopular rule. The inspiration of populist democracy is the idea of the people ruling themselves as free and equal beings rather than being ruled by an external power or by a self-selected minority among themselves. Recognizing the value of popular rule is consistent with – indeed requires – putting some significant constraints on popular will in the name of democracy. The constraints nonetheless leave a wide range of legitimate decisions open to popular decision making.

The constraints that are typically built into populist democracy to ensure that democratic decisions reflect the popular will are:

- free speech, press and association necessary for political freedom;
- the rule of law, as contrasted to the arbitrary will of public officials;
- formal voting equality, but not equality of actual influence on outcomes, freely formed (rather than manipulated), not arbitrary, and inclusive of all adult members of a society (Barry, 1979, pp. 156–7); and
- enfranchisement of 'all adult members of the association except transients and persons proved to be mentally defective' (Dahl, 1989, p. 129).

The populist ideal therefore requires certain substantive outcomes – unmanipulated political preferences, the rule of law, formal voting equality and inclusive citizenship – that can, and sometimes do, conflict with the actual popular will as revealed by any procedure designed for the sake of popular rule.

In cases of conflict, some democrats say that the popular will is not a democratic will, even by populist standards, because it does not either reflect the popular will or uphold the conditions necessary for maintaining a truly popular will over time. In these cases, populist democrats can draw attention to the substantive content of the populist democratic ideal, and they are strictly speaking correct to do so. But this way of speaking may also be misleading. In light of the populist ideal of the people ruling themselves as free and equal beings, any constraints on popular rule are undemocratic even if, all things considered, the constraints are justified. In light of the conflict, democrats must concede either that some degree of unpopular rule, such as judicial review, is justified for the sake of achieving outcomes unsupported by popular will, or that a truly democratic will, i.e., a popular will that supports the outcomes that make it democratic, is unlikely to be fully realized, or both.

Liberal Democracy

In partial contrast to populist democracy, liberal democracy denies that popular rule is the ultimate political value. Liberal democrats qualify the value of popular rule by

recognizing a set of basic liberties that take priority over popular rule and its conditions. The basic liberties typically include those that John Rawls in *A Theory of Justice* (1971, p. 61) identifies as basic to the ideal of free and equal human beings: freedoms of thought, speech, press, association and religion, the right to hold personal property, the freedom to vote and hold public office, and freedom from arbitrary arrest and seizure as defined by the concept of the rule of law. By giving priority to these basic liberties over democratic decision making and thereby qualifying the value of populist democracy, liberal democracy makes more principled room for judicial review, checks and balances, separation of powers, and other means of tempering popular will that are quite common in Western constitutional democracies.

Any institutional constraints on popular will may be used to preserve or further the unjust advantages of entrenched minorities, against the spirit of liberal as well as populist democracy. Some contemporary democrats, invoking John Stuart Mill, emphasize the possibility of educating public opinion to respect individual liberty, a possibility which if realized would permit democracy to do without any constraints on popular rule (Waldron, 1990, p. 56). But no society has yet succeeded in educating public opinion continually to respect the conditions of liberal democracy, and it is hard to imagine success in the foreseeable future.

To recognize the risks that popular rule poses for personal freedom does not entail recommending institutional constraints on popular will unless the minority in control of the constraining institutions is predictably more reliable than the majority of the people, or their elected representatives. Liberal democrats can consistently support judicial review if but only if the judiciary can predictably be relied upon to protect individual rights better than more majoritarian institutions. The historical record of judicial review in the United States remains open to interpretation in this regard.

The contrast between populist democracy and liberal democracy is greater in principle than in practice. Populist democracy is committed not only to processes that reflect popular will but also to outcomes that secure popular will over time (Ely, 1980; Walzer, 1981). Those outcomes – including freedoms of speech, press and association necessary for the formation, expression and aggregation of political preferences – are also among the basic liberties that liberal democracy is committed to protecting against popular rule (Gutmann, 1983).

Populist democracy and liberal democracy diverge only when confronted with a conflict between popular rule and those basic liberties that are not conditions of democracy. A paradigm case is hard-core pornography that intends no political message. The particular liberty at issue is, at least arguably, unnecessary for the formation, expression or aggregation of political preferences. Populist democrats have a principled reason to defend popularly sanctioned restrictions on hard-core pornography that liberal democrats have a principled reason to oppose. Populist democrats may oppose such restrictions on grounds that restrictive legislation gives government an opening to regulate pornographic speech that is part of political freedom. But the slippery slope argument will not always apply or suffice as a reason to restrict popular will. In cases where the government can be trusted to respect the democratically mandated line or where the risk of over-reach is small, populist and liberal democrats will be at loggerheads, disputing the value of community standards versus free speech, where community standards

are articulated by a democratic decision that finds the speech in question harmful to the interests of members of the community.

In the face of reasonable disagreement over the value of personal freedom relative to other social goods, populist democrats say that majorities rather than minorities should decide for their communities. Liberal democrats wonder why populists place so much value on popular rule when in practice each of us has so little chance of affecting the outcome of any decision. Would reasonable people not choose an expanded realm of personal freedom instead of one mere voice, or vote, among so many in making decisions (Berlin, 1969)? At most, only a small minority of people relishes political activity; many people choose not even to vote. In practice, for a majority of people, the democratic choice constitutes a loss of personal freedom with no corresponding gain – indeed, perhaps, yet another loss in the unwelcome pressure to engage in politics for the sake of protecting one's personal freedom.

Participatory Democracy

Participatory democracy challenges the relative emphasis liberal democracy places on protecting personal freedom compared to participating in politics. Participatory democrats argue that political participation is undervalued by democratic citizens today because contemporary democracies offer such limited opportunities for meaningful participation, especially compared to ancient Greek democracy. Were democratic societies to offer citizens greater opportunities to voice their political views, citizens would take advantage of those opportunities to voice their political views and make collective decisions that they now delegate to their representatives (Barber, 1984).

Participatory democrats frequently invoke the more extensive and richer political life of Athenian citizens and the corresponding ancient Greek disdain for a purely private life in support of recommendations to reconstruct democratic life today so that it offers greater opportunities for citizens to participate directly in politics, rather than indirectly through periodic elections for representatives. But participatory democrats are not primarily animated by nostalgia for ancient Greek democracy, which they, along with other modern democrats, criticize for justifying slavery and excluding women and the majority of working people from citizenship and public life. Participatory democracy is better understood as an attempt to respond to the widespread recognition that many representative democracies today face serious problems stemming from inadequate political understanding and information among the electorate, increasingly low levels of voter turnout, corruption and other violations of democratic accountability by public officials, all of which can be attributed to the non-participatory nature of large-scale representative democracies.

To the extent that ordinary citizens are limited in their political interest and understanding, the liberal democratic search for institutional mechanisms to prevent the abuse of power by public officials is also limited in its promise. Participatory democracy holds out the hope that inviting citizens to participate directly in political decision making will increase their understanding of, and interest in, politics. Participatory democrats count upon citizens to participate in politics instead of pursuing more private

pleasures when offered the choice. While Rousseau expected democratic citizens to fly to the political assemblies (*The Social Contract* [1762], Book 3, ch. 15), some contemporary participatory democrats scale down their expectations to popular use of interactive cable television for making informed decisions on political referenda (Barber, 1984). Both sets of expectations may be unrealistic. One might say about participatory democracy what Oscar Wilde is reputed to have said about socialism, that it would take too many evenings.

Participatory democrats offer two arguments, reminiscent of Rousseau, in response to such scepticism. The first is that political participation is a central part of the good life for human beings, and will be recognized as such under the right social conditions. The second is that widespread participation is necessary to prevent the abuse of power by public officials. Participation, on this view, is at the same time a necessary means to a good society, and an essential part of the good life.

Social Democracy

Social democracy extends the logic of liberal democracy to realms that traditional liberals considered private and therefore not subject to democratic principles. Economic enterprises and, more recently, the family are the primary realms that social democrats seek to democratize, at least in part. The principled basis for democratization is typically not the intrinsic value of participation but rather avoidance of the tyrannical threat over individual lives that accompanies concentrations of power (Dahl, 1970; Walzer, 1983).

In the case of economic enterprises, the threat takes the form of the unequal power of owners and managers of large corporations to determine workplace conditions as well as the income and even the general welfare of their employees. Although some liberals oppose any mandatory form of economic democracy on grounds that only the owners have a right to govern, most liberal democrats recognize that various principled bases of the right to own personal property, such as securing the conditions for personal autonomy, rule out the more far-ranging right to control large-scale economic enterprises at any cost to the freedom of the employees. Even the Lockean principle that people are entitled to the fruits of their labour does not entail that ‘investors are entitled to govern the firms in which they invest’ (Dahl, 1989, p. 330). Securing the conditions for autonomy for all members of a society requires some degree of democratic control either over or within large-scale economic enterprises.

The most common objection to democratizing industry from within is that ordinary workers are not competent to make the range of decisions necessary for profitable and efficient management of an economic enterprise. The same objection can be directed against democratic state control over industry, along with the argument that too much state control threatens state tyranny, which is potentially far worse than the tyranny any economic enterprise can exert over its employees or a democratic state. These objections do not devastate the case for some form and degree of economic democracy, but they challenge social democrats to unpack the bundle of property rights to determine which are best exercised democratically by workers within firms, which by publicly accountable officials over firms, and which best ceded to owners and managers on

the basis of competence, efficiency or the need to secure strong bulwarks against potentially tyrannical state power.

The challenge of democratizing the family is similarly significant and complex, although for different reasons. The relation between parents and children presents the paradigm case for justified paternalism, but the justification does not extend to exclusive parental authority over education, or other powers claimed by parents who interfere with the freedom and equality of future citizens (Gutmann, 1987). Social democracy also highlights the undemocratic consequences of gender inequality. By virtue of unequal economic, social and sexual power, men are able to exert tyrannical power over women. Democrats argue for a range of reforms (such as legislation against sexual harassment and subsidized childcare) that respect the rights and equalize the opportunities of women, but they also rightly worry about intrusions of the state into family matters as basic as the internal division of labour over childcare or the discretionary use of family income. Yet these traditionally private matters profoundly and differentially influence the personal freedom and political equality of democratic citizens.

Deliberative Democracy

Why, a critic might ask, do populists place so much value on popular rule and liberals so much on personal freedom? Deliberative democracy offers an answer that integrates the populist and liberal ideals. Personal freedom and political equality are valuable to the extent that they express or support individual autonomy – the willingness and ability of persons to shape their lives through rational deliberation (Cohen and Rogers, 1983; Hurley, 1989). Deliberative democracy employs popular rule to express and support the autonomy of all persons.

Whereas populist democracy assumes that the expression of popular will is an overriding good, deliberative democracy values popular rule as a means of encouraging public deliberation on issues that are best understood through open, deliberative processes. Accompanying the ideal of autonomous persons is an ideal of politics where people routinely relate to one another not merely by asserting their wills or fighting for their predetermined interests, but by influencing each other through the publicly valued use of reasoned argument, evidence, evaluation and persuasion that enlists reasons in its cause. In a deliberative democracy people collectively shape their own politics through persuasive argument (Walzer, 1983, p. 304; Fishkin, 1991, pp. 1–13). Deliberative democrats defend persuasion as the most justifiable form of political power because it is the most consistent with respecting the autonomy of persons, their capacity for self-government.

Granted that democracy can express popular will and prevent minority tyranny, how can any form of democracy claim to express and support the autonomy of persons? Some critics suspect that calling democracy deliberative is a verbal smokescreen for restricting individual freedom. Democracy limits the opportunity of all of us to live under laws of our own individual choosing. In this sense, democracy seems to undermine rather than express or support autonomy. If autonomy is understood individualistically, as all individuals legislating by themselves for themselves, then democracy's relation to autonomy is at best instrumental. The most limited form of

government, one that maximized the number of decisions left to individual choice, might do better.

Deliberative democrats respond that autonomy has a broader, more political dimension that is lost by taking the social context of individual choice for granted, and focusing only on the control individuals have over those life choices that they can make by themselves for themselves, free from interference. Many important life choices are influenced and constrained by social context, over which political authority has the greatest human control. To the extent that individuals are excluded from that authority, they lack autonomy over an important dimension of their lives.

Autonomy requires a distinctive kind of democracy, a system of popular rule that encourages citizens to deliberate over political decisions. Ongoing accountability, not direct political participation, is the key to deliberative democracy. Accountability is a form of active political engagement, but it does not require continual and direct involvement in politics; it is compatible with the division of labour between professional politicians and citizens that is characteristic of representative democracy. Whereas participatory democracy strives for a polity in which all citizens actively participate in making decisions that affect their lives, deliberative democracy takes account of the burden of political action and the advantages of a political division of labour.

Theorists of deliberative democracy believe that institutions of public accountability can encourage deliberation about public issues that affect people's lives. If this belief is false, there may be no prospect that deliberative democracy can make good on its promise of supporting autonomy through democracy. If true, then the ideal of deliberative democracy may be more compelling than that of other forms of democracy.

Two Paradoxes of Democracy

Whether any form of democracy can be compelling partly depends on an assessment of two paradoxes that are said to be endemic to all forms of democracy. One paradox of democracy was discovered by Richard Wolheim (1984, pp. 153–67), and can be briefly described as follows. A voter believes, and has good reason to believe, that a ban on deer hunting is the right policy, and therefore votes for the ban. The majority votes against the ban. The voter, being a reasonable person and a democrat, must now believe contradictory things: that the ban is justified (by the best reasons) and that it is not justified (because the majority opposed it). The voter is caught in a clear paradox, according to Wolheim's view.

The paradox disappears on a more defensible understanding of the nature of the democrat's beliefs (Honderich, 1973, pp. 221–6; Pennock, 1974, pp. 88–93). I vote against deer hunting because I think a hunting ban is the best policy alternative available, but I accept deer hunting as the policy that should be implemented once a majority chooses it, using legitimate democratic procedures. I still believe that the majority is wrong, but I also believe that they have a right to implement the wrong policy so long as it does not violate the conditions of democracy that are necessary for maintaining popular rule over time. There is no paradox here – just a difference between what a voter believes constitutes a correct policy on its merits, and what she believes constitutes a legitimate one for a democratic community to implement in light of the results of democratic procedures.

A second paradox, first influentially elaborated by Anthony Downs (1957, ch. 14), takes the form of a collective goods problem flowing from the fact that no citizen is excluded from the benefits of election results or from the more general benefits of continuing the democratic system itself. Voting is irrational from the point of view of the cost–benefit calculation of an individual in a large electorate, yet not voting also leads to undesirable results. Because no individual voter can expect to have more than a miniscule effect upon the outcome of a large-scale election, even the smallest costs of voting are likely to outweigh the benefits to the individual voter. It is therefore irrational for any individual citizen to vote. Yet the consequences of our not voting would be disastrous both for a democratic society as a whole and for any individual citizens who want the benefits that democracy has to offer.

If most people are cost–benefit calculators, then democracies are doomed to collapse under the weight of all the rational free riders on the system. If most people are not cost–benefit calculators, by the terms of this analysis, then democracies depend on the irrationality of citizens. In either case, democracy appears to be less defensible than democratic theorists have claimed.

Some rational choice theorists, most notably William Riker and Peter Ordeshook (1968, pp. 36–40), reconcile a utilitarian account of human beings as cost–benefit calculators with the incongruous evidence of widespread voting by assuming that citizens obtain benefits from voting, which can be formally expressed in utiles or informally as a satisfaction gained in living up to the democratic ethic of voting. The satisfaction we gain from living up to our moral duty is then factored into the equation of costs and benefits that determines whether it is rational for us to vote in any given election.

This way of explaining when and why citizens vote is *ad hoc* and misleading. If we vote because we recognize an obligation to do so, then 'we do not simply accord it [the obligation] greater weight in an ordinary decision calculus. Rather, we formally set it apart' (Goodin, 1982, pp. 101, 115–16). The utilitarian account not only fails to provide a satisfactory explanation of why people vote, it also misrepresents the way in which many people treat moral obligations and the way they can rationally understand their electoral choices. Electoral choice need not be just another component of a self-interested calculus, but rather a product of moral understanding and dedication to furthering social justice. To the extent that citizens do not live up to this moral ideal, democratic societies face not a paradox but a challenge: to design institutions that encourage moral deliberation, rather than self-interested calculation. Self-interested calculators create a paradox for democracy. Moral deliberators do not.

The Disharmony of Democracy

Democracy is not paradoxical, but it is disharmonious. In politics, as in personal life, autonomy requires choice among conflicting and incommensurable values. Even the most thorough deliberation does not guarantee that any single deliberator or a community of deliberators will converge upon a singularly correct resolution to a difficult social problem, especially in cases where there are several attractive alternatives each of which entails the sacrifice of some important value.

Democracy does not offer a calculus of choice. It is compatible with the belief that rational deliberation can, at least in theory, yield uniquely correct answers to all political questions, but it does not presuppose this belief. In practice, under conditions of imperfect information and understanding, public deliberation (like private deliberation) often does not yield knowledge of uniquely correct resolutions to political controversies. Democracy is therefore bound to be disharmonious both because individual citizens face hard political choices without any assurance of finding clear-cut resolutions, and because the conclusions of a community of deliberators are likely to differ when confronted with a difficult issue like abortion. The more political life encourages autonomy, the more agonizing decisions may become. But the level of political acrimony and violence may decrease as citizens learn to respect each other as deliberative, rather than merely wilful or self-interested, beings (Gutmann and Thompson, 1990). And greater public deliberation may also lead to more justifiable public policies. These are among the most inspiring prospects democracy has to offer.

References

Barber, B.: *Strong Democracy: Participatory Politics for a New Age* (Berkeley, Calif.: University of California Press, 1984).

Barry, B.: 'Is democracy special?', in *Philosophy, Politics, & Society*, ed. P. Laslett and J. Fishkin, Fifth Series (New Haven, Conn.: Yale University Press, 1979).

Berlin, I.: 'Two concepts of liberty', in *Fours Essays on Liberty* (London: Oxford University Press, 1969), pp. 118–72.

Cohen, J. and Rogers, J.: *On Democracy: Toward a Transformation of American Society* (New York: Penguin Books, 1983).

Dahl, R. A.: *After the Revolution* (New Haven, Conn.: Yale University Press, 1970).

—: *Democracy and Its Critics* (New Haven, Conn.: Yale University Press, 1989).

Downs, A.: *An Economic Theory of Democracy* (New York: Harper & Row, 1957).

Ely, J. H.: *Democracy and Distrust* (Cambridge, Mass.: Harvard University Press, 1980).

Fishkin, J. S.: *Democracy and Deliberation* (New Haven, Conn.: Yale University Press, 1991).

Goodin, R. E.: *Political Theory and Public Policy* (Chicago, Ill.: University of Chicago, 1982).

Gutmann, A.: 'How liberal is democracy?', in *Liberalism Reconsidered*, ed. D. MacLean and C. Mills (Totowa, NJ: Rowman & Allanheld, 1983), pp. 25–50.

—: *Democratic Education* (Princeton, NJ: Princeton University Press, 1987).

Gutmann, A. and Thompson, D.: 'Moral conflict and political consensus', *Ethics*, 101 (October 1990), 64–88.

—: *Why Deliberative Democracy?* (Princeton, NJ: Princeton University Press, 2004).

Hardin, R.: 'Public choice versus democracy', in *Majorities and Minorities*, ed. J. W. Chapman and A. Wertheimer (New York: New York University Press, 1990), pp. 185–203.

Honderich, T.: 'A difficulty with democracy', *Philosophy & Public Affairs*, 3 (Winter 1973), 221–6.

Hurley, S. L.: *Natural Reasons: Personality and Polity* (New York: Oxford University Press, 1989).

Macpherson, C. B.: *Democratic Theory: Essays in Retrieval* (Oxford: Oxford University Press, 1973).

Pennock, J. R.: 'Democracy is not paradoxical: Comment', *Political Theory*, 2, 1 (February 1974), 88–93.

Rawls, J.: *A Theory of Justice* (Cambridge, Mass.: Harvard University Press, 1971).
Riker, W. H. and Ordeshook, P. C.: 'A theory of the calculus of voting', *American Political Science Review*, 62 (1968), 25–42.
Rousseau, J.-J.: *The Social Contract* (1762; Harmondsworth: Penguin Books, 1968).
Schumpeter, J.: *Capitalism, Socialism, and Democracy* (London: George Allen & Unwin, 1943).
Waldron, J.: 'Rights and majorities: Rousseau revisited', in *Majorities and Minorities*, ed. J. W. Chapman and A. Wertheimer (New York: New York University Press, 1990), pp. 44–75.
Walzer, M.: 'Philosophy and democracy', *Political Theory*, 9, 3 (August 1981), 379–99.
—: *Spheres of Justice* (New York: Basic Books, 1983).
Wolheim, R.: 'A paradox in the theory of democracy', in *Philosophy, Politics and Society*, ed. P. Laslett and W. G. Runciman, 2nd Series (Oxford: Basil Blackwell, 1962), pp. 71–87.

Further reading

Barry, B.: *Sociologists, Economists, and Democracy* (London: Collier-Macmillan, 1970).
Chapman, J. W. and Wertheimer, A.: *NOMOS XXXII: Majorities and Minorities* (New York: New York University Press, 1990).
Dahl, R. A.: *A Preface to Democratic Theory* (Chicago, Ill.: University of Chicago, 1956).
—: *On Democracy* (New Haven, Conn.: Yale Nota Bene, 2000).
Gutmann, A.: *Liberal Equality* (Cambridge: Cambridge University Press, 1980).
Mill, J. S.: *Considerations on Representative Government* in *Collected Works*, vol. XIX, ed. J. J. Robson (Toronto: University of Toronto Press, 1977).
—: *On Liberty* in *Collected Works*, vol. XVIII, ed. J. J. Robson (Toronto: University of Toronto Press, 1977).
Okin, S. M.: *Justice, Gender, and the Family* (New York: Basic Books, 1989).
Pennock, J. R.: *Democratic Political Theory* (Princeton, NJ: Princeton University Press, 1979).
Phillips, A.: *Engendering Democracy* (University Park: Pennsylvania State University Press, 1991).
Shapiro, I.: *The State of Democratic Theory* (Princeton, NJ: Princeton University Press, 2003).
Thompson, D. F.: *The Democratic Citizen: Social Science and Democratic Theory in the Twentieth Century* (Cambridge: Cambridge University Press, 1970).
Young, I. M.: *Inclusion and Democracy* (Oxford: Oxford University Press, 2000).

Chapter 26

Dirty Hands

C. A. J. COADY

> All kings is mostly rapscallions.
>
> Mark Twain, *The Adventures of Huckleberry Finn*

When Huck Finn embarks upon his hilarious education of the slave Jim in the moral vagaries of the monarchies of Europe, he takes himself to be propounding the merest common sense. He may have thought large-scale villainy restricted to autocracies, but his creator was clearly not so naive. More to the present point, Huck ends his discourse on princely rule with remarks that show he was not merely cataloguing the fact of widespread royal vice, but willing to countenance it as necessary. As he puts it, 'kings is kings, and you got to make allowances. Take them all around, they're a mighty ornery lot'.

Though Machiavelli ([1513] 1984, p.52) puts the thought at its starkest, with his insistence that the Prince 'must learn how not to be good', the idea that political life essentially involves the transcendence or violation of ordinary morality has shown remarkable resilience. It was a common, though not universal, view in the nineteenth century, and has seen a revival amongst many contemporary philosophers, who, echoing Sartre, characterize it as the problem of 'dirty hands'. Although this revival predates the recent 'war on terror', that American-led enterprise has provided a new contemporary focus for the alleged necessity to 'play dirty', especially with respect to the use of torture. Actually, as the torture debate illustrates, the dirty hands idea promotes not one thought, but several, and they need to be disentangled. In what follows, I shall begin with some clarification of the issue, proceed to examine the claims of role morality, and then lay out the crucial situational factors that tend to produce the challenge of dirty hands. This leads on to a discussion of the complex ways that ideals and moral duties interact with the messy realities characteristic of, but not confined to, politics.

The first clarification required is the obvious one that we are not dealing merely with the claim that politics is an area in which immorality or villainy is common. This is a partly empirical claim from which nothing follows directly about a striking normative thesis like Machiavelli's. If some practice or field of endeavour is corrupt, this calls for condemnation and reform, not accommodation. Nor, to be fair, do those who rail against politicians ('they're all crooks'), usually condone all the crookedness they claim

to detect. Nonetheless, if what they say is true, there are normative problems posed by its truth. Consider the parallel with crime itself. Even though there may sometimes be 'honour amongst thieves' and some criminals are kind to their mothers or dogs, the claim that 'all criminals are mostly rapscallions' can be admitted without raising any qualms about the legitimate reach of ordinary morality. But politics is different: we could happily do without crime, though we don't know how to eliminate it, but politics seems an inescapable ingredient in the good life itself.

Aristotle certainly thought as much because not only did he insist that we humans were essentially political animals, but he made the political process so central to *eudaemonia* as to maintain that the fullest achievement of virtue was available *only* to the political leader (Aristotle, *The Politics*, Book III, ch. iv). We may think Aristotle's exaltation of the political realm exaggerated; nonetheless, it is hard to deny that we need politics in a way that we do not need crime. If the anarchist vision is ultimately a mirage, then the political process, in something not too dissimilar to its present form, is needed to deliver so much that seems integral to the good life, e.g., health, comfort, justice, self-respect and education. The claim therefore that politicians are corrupt through and through rightly creates acute moral anxiety, since the idea that evil-doing is pretty much universal amongst the practitioners of politics implies that there is something about the very activity of politics that goes against the demands of morality as ordinarily understood. Furthermore, the anxiety remains even if we allow (as we should) for the considerable exaggeration in the line that 'they're all crooks', because enough morally shocking behaviour still seems typically political to suggest a conflict within the moral order itself: morality requires behaviour that is essentially immoral.

Morality and the Political Role

One line of response to this alarming conclusion is to distinguish between wrongdoing that is a natural result of the particular temptations of political life, especially those of power, but remains wrong nonetheless, and other apparent wrongdoing that is more integral to political activity. The latter is then seen as part of a distinctive political ethic even though it conflicts with 'ordinary morality'. The underlying premiss here is that there is something so distinctive about political activity that it requires ethical thinking specific to its distinctiveness. Put like this, the idea is persuasive. Moral thinking is essentially adaptive to circumstance and context, and it is perfectly clear that different types of role, office or (as used to be said) station will affect the sorts of duties, responsibilities, powers and permissions that one has and ought to have. There are good reasons for allowing (some) police to carry guns and (most) ordinary citizens not to – though these good reasons do not prevail as widely as they should in the civilized world – and foresters are rightly empowered to cut down trees where ordinary citizens dare not hack. But such duties and rights hardly mark a departure from 'ordinary morality' since it is precisely in terms of 'ordinary morality' (i.e., moral reasoning readily recognizable by non-esoteric thinkers) that they are plausibly defensible. Moreover, what creates these distinctive necessities is something continuous with ordinary life, in that the special powers and duties granted to particular role-bearers, such as firefighters, may be assumed by ordinary citizens in emergency situations.

What is also debatable is whether the political vocation is sufficiently distinguishable as a role for considerations of role morality or professional ethics to take us into exciting, Machiavellian territory. The political role is far more undifferentiated, even amorphous, than such roles as lawyer, doctor or firefighter. This is because there are political dimensions to most, if not every, aspect of life. There are political roles in academic life, in the churches, in the law, in the crafts and trades, even (as traditional literature and modern feminism both emphasize) in the family. The point or *telos* of politics is also less clear than that of medicine or policing. We could say that its end is the concern for the common good, but this, though possibly true, raises more problems than it solves. Certainly, these facts make it difficult to read off specific moral injunctions from the phenomenon of political life, as we might more easily do, say, with medical life. We may think that the good purpose of treating sickness and promoting health cannot be achieved unless those who practise medicine have certain particular duties, rights and powers, and, although there is considerable room for disagreement as to detail, the broad nature of these is clear enough. In the case of politics, especially in the context of the alleged necessity for 'dirty hands', the situation is far more obscure. This is reflected in the fact that if we determine some imperative to be part of medical ethics, e.g., that a doctor need not consult with parents before prescribing the contraceptive pill to teenage girls older than thirteen, then this determination, if correct, stands as part of ordinary morality not in opposition to it. Any such opposition must be merely apparent. Nor are we dealing with the sort of moral impasse philosophers have discussed under the label 'moral dilemma', for these are cases where reason yields *no* right answer. For politics, the Machiavellian thought, at least in its most challenging form, is quite different; the idea is that it is sometimes legitimate for political rulers, precisely because they are rulers, to deceive, cheat, betray or even torture and murder, where these acts are clear violations of the moral code that seems to bind us all.

The qualification, 'in its most challenging form', is important. In Machiavelli himself (especially in *The Prince*), it does take this form, though at times his formulations move further in the direction of including the princely imperatives within the scope of ordinary morality. So he says of the prince that 'carefully taking everything into account, he will discover that something which appears to be a virtue, if pursued, will end in his destruction; while some other thing which seems to be a vice, if pursued, will result in his safety and well-being' (Machiavelli, 1984, p. 53). Here, the reference to appearances make his position a little more accommodating of morality's claim to a dominant position amongst reasons for acting, even if it is subversive of its normal substance. This wavering amongst formulations is philosophically interesting, and I have discussed it elsewhere (Coady, 1990, pp. 259–63). Here we need only note that, because we tend to think of morality both as forming a coherent whole and as dominating all other reasons for action, there are at least two different ways of stating the 'dirty hands' thesis. We may state it as the view that political reasons sometimes legitimately override the most serious moral considerations, or as the view that morality is divided against itself, with the virtues required by political life incompatible with what we think of as normal (or 'private') virtues. There is a third option, but it is less a formulation of the dirty hands challenge than a way of sanitizing its confrontation with morality. This is the option of treating the apparent clash between political and ordinary morality as reconciled by some overarching moral principle, such as the principle of utility.

However we state it, two interesting points need settling. Are 'dirty hands' restricted to politicians, and, if they are not, is there something that makes political life a special 'showpiece' for dirty hands? It seems to me clear that the sorts of arguments made by those who promote the category of 'dirty hands' are applicable beyond the arena of politics as narrowly, or even broadly, understood. When, for instance, philosophers stress the momentous consequences of political decisions, and argue that the consequences of abiding by normal moral prohibitions are sometimes so disastrous as to require the violation of moral constraints, they tend to ignore the way in which the same can be said of relatively private areas of life, like the decisions facing a mother in an impoverished, crime-dominated urban ghetto, or those confronting an inmate of a concentration camp. This is not the place to examine the detail of the different arguments offered, but there are certain themes implicit, and sometimes explicit, in the argumentation, and an examination of these can show both that the dirty hands issue cannot be restricted to politics and why it is so often taken to exemplify it.

The Generating of Dirty Hands

Machiavelli makes it clear that one of the situations generating the need for the ruler to act wickedly is the fact that others with whom one interacts cannot be relied upon to act morally, and hence conformity to morality is foolish and dangerous for survival. We might call this the problem of moral isolation. As befits someone who puts survival at the heart of morality, Thomas Hobbes gives an even clearer account of this than Machiavelli. Hobbes thought that the laws of nature gave us a valid moral code and associated virtues, but that they obliged *in foro interno* and 'not always' *in foro externo*. He meant that we ought to want the laws of nature to be obeyed, but that we would be stupid to practise morality unilaterally. Hobbes did not think the point applied solely to politics; rather, he thought it an important feature of life in a state of nature, but, as Sidgwick noted in a perceptive and neglected essay (Sidgwick, 1898), and as Hobbes would certainly have insisted, rulers often stand in relations to one another that resemble a state of nature. Hence the sphere of international relations is one that naturally lends itself to the dirty hands story. To the extent that morality depends upon the co-operation stressed by Hobbes, then where it is absent, we *may* be licensed to engage in the deception and violence of 'covert operations' against other nations. (It is worth noting, however, that the moral isolation of a state of nature may work to impose more, rather than less, stringent duties upon individuals or states. As Sidgwick [1898, pp. 77–8] saw, promises extracted by wrongful force are not binding in 'an orderly state', but are binding to some degree upon the defeated victims of an unjust war.)

The claims of 'moral isolation' have nonetheless to be treated with great caution. They are at their strongest in situations where the moral issues are heavily conventional. Where politeness decrees that no one need tell the truth about his feelings on meeting an unwelcome visitor, it might be folly not to lie, indeed it is not even clear that our linguistic intuitions would count as lies such falsehoods as 'I'm pleased to see you'. More interesting are the cases where broad non-compliance by others in the moral enterprise raises large issues of survival and so gives us a dispensation from strict

compliance ourselves. Arguably this is so of certain dealings by the police with criminals, as in undercover investigations, and it seems particularly clear during war in activities such as spying on the enemy and providing him with misinformation. It seems reasonable to say that the drug dealer or hit man has by his activities forfeited any right to complain of such methods. Even so, issues of implicit contract, or even survival, do not exhaust the foundations of morality. Drug dealers and terrorists may have forfeited some of the normal rights not to be deceived, but it is another matter altogether whether they can forfeit their rights not to be tortured. The prohibition on torture is clearly deeper than any convention. This suggests that there are at least two reasons for caution about the concessions founded on moral isolation. One concerns the matter of character and the other the possible consequences of the policy of relaxing moral prohibitions.

As to the former, it is not always folly to exercise the virtues of honesty, kindness and justice when others ignore them, since there is a personal and communal value in good character, even in such circumstances. As so many of the better spy novels teach us, the world of the spy is one of paranoia, self-deception and emotional sterility. Immersion in this world not only tends to distort the personalities of the spies, but, as recent history teaches us, it tends to damage the political culture of the wider society to which they belong. Nor are these direct consequences the only ones to be expected. If governments and their agencies are ready to relax moral standards *in extremis*, they cannot expect other groups and agencies within the community not to follow suit. This should give particular pause when we consider some of the supposed extremes in the dirty hands literature licensing serious moral exceptions in such areas as campaign funding (see Walzer, 1973, p. 165).

This problem is sometimes obscured by a certain romantic pomposity about the state, which sees it as the only agency of political thought and activity and as having such a special role and purpose that exemptions granted to it could hardly be extended further. A certain Gustro Rumelin, Chancellor of the University of Tübingen, put the matter splendidly in 1875: 'The state is self-sufficient. Self-regard is its appointed duty; the maintenance and development of its power and well-being, – egoism, if you like to call this egoism – is the supreme principle of all politics' (quoted in Sidgwick, 1898, p. 64). But the example of egoism is infectious, and other corporations and groups within the state have not been slow in claiming the same prerogatives, especially where anything remotely connected with survival is at stake – survival of the party, the business, the department, the club, or the individual as indispensable leader of the group. The consequences of this, in turn, include the promotion of widespread cynicism about politicians and public life generally, and this itself makes inroads upon the achievability of the goods that politics is supposed to promote.

Even were the state as unique as this grandiose egoism maintains, there are other consequences of the granting of dirty hands exemptions in politically extreme or supreme emergency conditions that are significantly disturbing, though often ignored. In particular, there are the problems caused by the prospective emulation by others, including your enemies, of the supreme emergency exemptions you allow yourself. The case of torture provides a good example. Where one state regards some situation as an emergency allowing or requiring torture, such as the commonly invoked 'ticking bomb' scenario, other states, and non-state agents, will be quick to follow their example. Given

the ambiguities and interpretive obscurities in the idea of supreme emergency or ticking bomb, this strongly suggests disastrous moral outcomes.

Another source of the cynicism about politics, mentioned earlier, resides in the tension that seems inevitable between the supposed requirements of dirty hands and the moral underpinnings of democratic polity. The cultivation of the capacity for judicious vice in the ruler or public authority sits oddly with the values of public accountability and relative openness characteristic of genuine democracy. It is significant that Machiavelli urges his prince to keep up a public pretence of virtue whilst engaging in vicious acts as required, and certainly the success in ruling that Machiavelli so admired frequently requires the necessary wrongdoings to be cloaked in secrecy. But the prevalence of such secrecy, especially with regard to the breach of commonly accepted moral standards, is corrosive of the basic ideals of a democracy, and productive of cynicism about the political process. Witness the effects of the many, decidedly *unnecessary* moral enormities (including torture and support for terrorism) committed, without adequate scrutiny, under the rubric of 'national security' by so many Western democracies in recent years. For the hands to be successfully dirty, it seems they must also be democratically illegitimate. (For further discussion of this see Thompson, 1987, ch. 1.)

Ideals and Messy Realities

One thing that the discussion of moral isolation suggests is that morality often presents us with certain ideals that may have to be adapted to the messy realities of a world in which the ideals are widely disregarded or face difficulties of implementation. In much of life, we are faced with social realities that exhibit what John Rawls (1972, pp. 245–8) has called 'partial compliance' to the conditions and norms of justice and other social virtues. If the champions of politics are often insensitive to the force of moral demands, the champions of morality are sometimes blind to political (and other) realities. There are two situations that need attention here, though it must regrettably be brief, and these are situations of compromise and extrication.

Problems of compromise are endemic to political life and, indeed, to all collaborative activities, for they allow joint enterprises to proceed, in spite of the conflicting goals, values and ideals of the participants. They do this because a compromise is a sort of bargain in which people who see advantages in co-operation for certain ends sacrifice other objectives, temporarily or permanently, in order to gain the ends that they believe only achievable by co-operation. Compromise is not inherently immoral and it often has little to do with morality, but the losses may have a moral flavour about them, as when someone abandons certain ideals or sacrifices the hope of achieving certain valuable outcomes. To achieve economic stability, a politician may have to abandon much-needed reform of the health services, or a taxation scheme that would achieve more just social results. The moral losses incurred in such compromises are a necessary part of all politics, but they should not be treated lightly since persistent trading of central and cherished ideals can lead to the situation where a politician stands for nothing but his own or his party's survival in office. The problem with pragmatism is that the point of survival is swallowed up by the day-to-day necessities of compromise. Furthermore, beyond ideals, which may be modified, postponed or even legitimately

abandoned, there exist basic moral standards and commitments that should be integral to an individual's character. To trade these is not just to compromise but to be compromised, and this is a description that invariably has negative force. When 'dirty hands' requires not just the limiting of moral hopes, and a certain lowering of moral outlook, but the abandonment of principle, it is an altogether more dubious and difficult demand.

Another important source for dirty hands problems are situations in which the agent needs to extricate from a moral mess of her own or others' making. In the political context, the agent may have initiated the immorality herself, or may have acquired responsibility for it, perhaps by inheriting office. Believing an existing war her country is waging to be unjust, for instance, she may, as the new leader of the government, be unable to stop the war at once without being responsible for grave harms and even wrongs that are bound to follow on an immediate surrender or withdrawal. Gradual disengagement, however, offers good prospects for avoiding such evils though it means that she must continue to direct an unjust war and the unjust killings it involves. More detail is required for a full discussion of this point, but it seems plausible that the example could be so constructed that the leader is morally responsible for wrongdoing whichever way she acts, but that gradual extrication is less wrong than immediate cessation. It also seems plausible that her responsibility is not the wholesale negative responsibility integral to consequentialist ethics but the responsibility inherent in ordinary moral thinking. But it is important to note that these are not simple cases of politics triumphing over morality since the moral verdict on the war remains dominant in showing the way to extrication. (There are fuller discussions of this issue in Coady, 1989; 1990.)

There is an intriguing issue related to the dirty hands debate which is created by the role of bureaucracy in public life. This has been called the problem of 'many hands' (Thompson, 1987, ch. 2) though it might just as well be called the problem of 'no hands'. It arises when, in a complex organization, so many people contribute to an outcome that the question of who is morally responsible for producing it is seriously muddled. Part of the problem is informational and part of it is attitudinal. It is particularly relevant to the role of expert advisers in political or commercial contexts. The informational point is that such advisers sometimes know little about the overall purposes for which their advice will be used; the attitudinal point is that, whether they know or not, they frequently see themselves as having no moral responsibility for the organizational outcomes of their work. 'I am paid for my expertise', says the lawyer, soldier, accountant or scientist. 'It is my duty to my client or employer to give them the benefits of that expertise no matter how they might use it.' It is not that the advisers are like Machiavelli's prince in considering that the end justifies the means, but rather that they disclaim any knowledge of or concern for the end and restrict themselves to purely technical consideration of the means. There are many complex problems raised by this phenomenon, but it is easy to see the dangers that such widespread abdication of moral responsibility poses for the relevance of morality to politics and public life generally.

Finally, it is important in considering the problem of 'dirty hands' or 'no hands' not to be trapped into considering the issue in a static way, as though the background circumstances in which hands are likely to get dirty, or empty of moral responsibility,

are somehow immutable. Machiavellian thinking has a tendency to obscure the fact that the background to political life is itself a fit subject for moral scrutiny and structural change, especially when it is that background itself that contributes to the alleged need for dirty or empty hands. Talk of the necessity for hands to get dirty often assumes a complacent, even conniving, tone, and tends to stifle the moral imagination, making local necessities seem global and eternal. The Machiavellian outlook also puts morality into too defensive a posture, as though morality could only confront politics as an inhibition and a problem. But, although there are plenty of difficulties with a merely moralistic approach to politics, we must not lose sight of the power of morality as a dynamic for political change. The mostly peaceful overthrow of entrenched communist tyranny in Eastern Europe, with all its ambiguities, is a reminder of this (see O'Neill, 1990).

References

Aristotle: *The Politics*, trans. T. A. Sinclair, revised T. J. Saunders (Harmondsworth: Penguin, 1981).

Coady, C. A. J.: 'Escaping from the bomb: immoral deterrence and the problem of extrication', *Nuclear Deterrence and Moral Restraint*, ed. H. Shue (New York: Cambridge University Press, 1989).

—: 'Messy morality and the art of the possible', *Proceedings of the Aristotelian Society* (supplement), 64 (1990).

Garrett, S.: *Conscience and Power: An Examination of Dirty Hands and Political Leadership* (Basingstoke: Palgrave Macmillan, 1996).

Hobbes, T.: *Leviathan* (1651), ed. C. B. Macpherson (Harmondsworth: Penguin, 1981).

Levinson S.: 'The debate on torture: war against virtual states', *Dissent*, 50, 3 (Summer 2003).

Machiavelli, N.: *The Prince* (1513), ed. P. Bondanella (Oxford: Oxford University Press, 1984).

—: *The Discourses* (1513) trans. and ed. L. J. Walker (Harmondsworth: Penguin, 1950).

O'Neill, O.: 'Messy morality and the art of the possible', *Proceedings of the Aristotelian Society* (supplement), 64 (1990).

Rawls, J.: *A Theory of Justice* (Oxford: Oxford University Press, 1972).

Rynard, P. and Shugarman, D.: *Cruelty and Deception: The Controversy over Dirty Hands* (Peterborough: Broadview Press, 2001).

Sartre, J.-P.: *No Exit and Three Other Plays: 'Dirty Hands', 'The Flies' and 'The Respectful Prostitute'* (New York: Vintage, 1955).

Shue, H.: 'Response to Sanford Levinson', *Dissent*, 50 (2003).

—: 'Torture', *Philosophy and Public Affairs*, 7 (1977–8). Reprinted in *Torture: A Collection*, ed. S. Levinson (Oxford: Oxford University Press, 2004).

Sidgwick, H.: 'Public morality', in *Practical Ethics* (London: Swan Sonnenschein & Co., 1898).

Thompson, D. F.: *Political Ethics and Public Office* (Cambridge, Mass.: Harvard University Press, 1987).

Waldron, J.: 'Torture and positive law: Jurisprudence for the White House', *Columbia Law Review*, 105 (2005).

Walzer, M.: 'Political action: the problem of dirty hands', *Philosophy and Public Affairs*, 2 (1973), 160–80.

—: 'Emergency ethics', in Michael Walzer, *Arguing About War*, ch. 3 (New Haven, Conn.: Yale University Press, 2004).

Further reading

Acheson, D.: 'Ethics in international relations today', *The Vietnam Reader*, ed. M. G. Raskin and B. Fall (New York: Random House, 1965).
—: 'Homage to plain dumb luck', *The Cuban Missile Crisis*, ed. R. A. Divine (Chicago, Ill.: Quadrangle Books, 1971).
Coady, C. A. J.: 'Politics and the problem of dirty hands', *A Companion to Ethics*, ed. P. Singer (Oxford: Basil Blackwell, 1991).
Day, J. P.: 'Compromise', *Philosophy*, 64 (1989).
Erasmus, D.: *The Education of a Christian Prince*, trans. and intro. L. K. Born (New York: Columbia University Press, 1936).
Gaita, R.: 'Ethics and politics', in *Good and Evil: An Absolute Conception* (Basingstoke: Palgrave Macmillan, 1990).
Hampshire, S.: 'Morality and pessimism', *Public and Private Morality*, ed. S. Hampshire (Cambridge: Cambridge University Press, 1978).
Kavka, G. S.: 'Nuclear coercion', in *Moral Paradoxes of Nuclear Deterrence*, ed. G. S. Kavka (Cambridge: Cambridge University Press, 1987).
Marx, K.: *Writings of the Young Marx on Philosophy and Society,* ed. and trans. L. D. Easton and K. H. Guddat (New York: Anchor, 1967).
Nagel, T.: 'Ruthlessness in public life', *Public and Private Morality*, ed. S. Hampshire (Cambridge: Cambridge University Press, 1978).
Oberdiek, H.: 'Clean and dirty hands in politics', *International Journal of Moral and Social Studies*, 1, 1 (1986).
Plato: *The Republic*, any edition; especially Book 1.
Rousseau, J.-J.: *The First and Second Discourses Together with the Replies to Critics and Essay on the Origin of Languages*, ed. V. Gourevitch (New York: Perennial Library, 1986).
Rynard, P. and Shugarman, D. P., eds: *Cruelty and Deception: The Controversy over Dirty Hands in Politics* (Peterborough, Ont.: Broadview Press, 2000; Sydney: Pluto Press, 2000).
Stocker, M.: *Plural and Conflicting Values* (Oxford: Oxford University Press, 1990).
Walzer, M.: *Just and Unjust Wars* (New York: Basic Books, 1977).
Weber, M.: 'Politics as a vocation', in *From Max Weber: Essays in Sociology*, ed. H. H. Gerth and C. W. Mills (New York: Oxford University Press, 1946).
Williams, B.: 'Politics and moral character', in *Public and Private Morality*, ed. S. Hampshire (Cambridge: Cambridge University Press, 1978).

Chapter 27

Discourse

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The notion of 'discourse', as developed in some contemporary approaches to political analysis, has its distant roots in what can be called the transcendental turn in modern philosophy – i.e. a type of analysis primarily addressed not to *facts* but to their *conditions of possibility*. The basic hypothesis of a discursive approach is that the very possibility of perception, thought and action depends on the structuration of a certain meaningful field which pre-exists any factual immediacy. A transcendental enquiry as an investigation of the conditions of possibility of experience started with Kant, for whom space, time and the categories of understanding constitute the *a priori* dimension in the constitution of phenomena. And in the early twentieth century Husserl's phenomenology strictly differentiated an intuition of facts from an intuition of essences, and asserted that the latter is constitutive of all 'givenness'. These classical transcendental approaches differ, however, in two crucial respects from contemporary theories of discourse. The first is that, while in a philosophy like Kant's the '*a priori*' constitutes a basic structure of the mind which transcends all historical variations, contemporary discourse theories are eminently historical and try to study discursive fields which experience temporal variations in spite of their transcendental role – i.e. that the line separating the 'empirical' and the 'transcendental' is an impure one, submitted to continuous displacements. A second differentiating feature is that the concept of 'discursive fields' in contemporary approaches depends on a notion of structure which has received the full impact of Saussurean and post-Saussurean linguistics.

Even within this very general characterization we must differentiate between those theories of discourse that are strongly related to transformations in the field of structural linguistics and those whose links to structural analysis are more distant and do not pass through an internal critique of the Saussurean notion of the sign. The first approach is represented by post-structuralism conceived in a broad sense, the second by the work of Michel Foucault and his school. We will treat successively these two trends and will later deal with the consequences of such developments for the conceptualization of politics.

Theories of Discourse

The linguistic theory of Ferdinand de Saussure (1959), originally presented in three courses given in Geneva between 1906 and 1911, turn around the notion of the sign conceived as the relation between an acoustic image (the *signifier*) and a concept (the *signified*). According to Saussure there are two basic principles around which structural linguistics is organized. The first is that in language there are no positive terms, only differences. To understand the meaning of the term 'father' I have to understand the meaning of the terms 'mother', 'son', etc. This purely relational and differential character of linguistic identities means that language constitutes a *system* in which no element can be defined independently of the others. The second principle is that language is *form* and not *substance* – that is, that each element of the system is exclusively defined by the rules of its combinations and substitutions with the other elements. To use Saussure's analogy, if I substitute the wooden pieces in a chessboard with marbles or even pieces of paper, I can still play chess as far as the rules governing the movements of the pieces remain the same. In this entirely differential universe, dominated by purely formal rules, there is strict isomorphism: to each stream of sounds constituting a word corresponds one and only one concept. The order of the signifier and the order of the signified strictly overlap.

There were, however, for Saussure, strict limits to the possibility of developing a linguistic theory of discourse. From a Saussurean point of view discourse is any linguistic sequence more extended than the sentence. Now, in a Saussurean perspective a linguistics of discourse is impossible because a succession of sentences is only governed by the whims of the speaker and does not present any structural regularity graspable by a general theory. With this Cartesian assertion of the omnipotence of the subject, the very possibility of a linguistic theory of discourse was ruled out. On top of that, the Saussurean theory of the sign was ultimately inconsistent, for if language is form and not substance, and if there is a strict isomorphism between the order of the signifier and the order of the signified, the two orders become – from a formal point of view – indistinguishable from each other, and the duality of the linguistic sign cannot be maintained. At this point Saussure had to reintroduce surreptitiously the distinction between phonic and conceptual *substances*, with the result of tying even more closely structural analysis to the linguistic sign. Although he had vaguely announced the possibility of a semiology as a general science of signs in society, his dependence on linguistic *substances* made difficult this enlargement of the fields of application of structural principles.

It was only with the *glossematic school* of Copenhagen that these internal inconsistencies of Saussureanism were properly addressed. The result was the formulation of a second model of structural linguistics, which clearly advanced in the direction of an increasing formalism. Hjelmslev (1961; 1970) broke with Saussure's isomorphic conception of the relation between signifier and signified by subdividing both orders into units smaller than the sign:

> phonologists . . . have brought to light linguistic units smaller than signs: the phonemes . . . (the sign *calf* is made up of the three phonemes k/ae/ and f/). The same method applied to content allows the distinction, in the same sign, of at least three elements . . . or semes . . . bovine/male/young. Now it is clear that the semantic and the phonic units thus

> located can be distinguished from the formal point of view: the combinatorial laws concerning the phonemes of a language and those applied to the semes cannot be shown to correspond to each other . . . (Ducrot and Todorov, 1980, p. 22)

The consequences of this trend towards formalism were far-reaching as far as a theory of discourse is concerned. The main ones are the following:

1 If the abstract system of formal rules governing the combination and substitution between elements is no longer necessarily attached to any particular substance, *any* signifying system in society – the alimentary code, furniture, fashion, etc. – can be described in terms of that system. This was the direction that semiology took from the 1960s, starting with the pioneering works of Roland Barthes (1967; 1968; 1972; see also Kristeva, 1969). In fact, there was an increasing realization that 'discourse' did not refer to a particular set of objects, but to a viewpoint from which it was possible to redescribe the totality of social life.
2 If formalism strictly applies, this means that the *substantial* differences between the linguistic and the non-linguistic have also to be dropped – in other terms, that the distinction between action and structure becomes a secondary distinction within the wider category of meaningful totalities. This point has been particularly stressed in Laclau and Mouffe (1985), and it brings discourse theory close to the conclusions reached by the work of the later Wittgenstein, i.e. the notion that 'language games' embrace both language and the actions in which it is woven (Wittgenstein, 1983, p. 5).
3 Finally, strict formalism made it also possible to overcome the other obstacle to the formulation of a linguistic theory of discourse: as far as all distinctions had to be considered as merely differential – i.e. as internal to the structure – the subject could no longer be conceived as *the source* of meaning but, instead, as just one more particular location within a meaningful totality. The 'death of the subject' was one of the battle cries of classical structuralism. The way in which the speaker put sentences together could no longer be conceived as the expression of the whims of an entirely autonomous subject but, rather, as largely determined by the way in which institutions are structured, by what is 'sayable' in some contexts, etc. The task of discourse analysis for classical structuralism was to uncover these basic regularities which govern the production of meaning in social life. This programme was carried out, from a technical point of view, by putting together the contributions of various disciplines such as the theory of argumentation, the theory of enunciation, speech-act theory, semantic and syntactic analysis, etc.

In recent years the structuralist tradition has experienced, from various quarters, a series of reformulations which have led to what can properly be called a post-structuralist moment. The common denominator of these revisions has been to put into question the notion of closed totality, which was the cornerstone of classical structuralism. (If identities are only differences within a discursive system, no identity can be fully constituted unless the system is a closed one.) The post-structuralist trend has been to experiment in the logic of subversion of discursive identities which follows from

the logical impossibility of constituting a closed system. The main currents within this trend are the following:

1 The reformulation of the logic of meaning in the later work of Roland Barthes (1974). While in his early semiological works Barthes believed in a strict differentiation between denotative and connotative meanings, he realized later that no strict differentiation between both can be established. This led to the notion of a *plural text*, whose signifiers cannot be permanently attached to particular signifieds.
2 A similar loosening of the relation between signifier and signified takes place in the psychoanalytic current inspired by Jacques Lacan (1977). Freudian theory, through its emphasis on the process of overdetermination (condensation and displacement), which intervenes in the constitution of all psychical formations, had already insisted in the impossibility of fixing meaning through a strict correlation between signifier and signified. This tendency is radicalized by Lacanian theory in what is called the *logic of the signifier*, i.e. the permanent slide of the signified under the signifier (the latter becoming the stable element).
3 Finally, the *deconstructionist* movement, initiated by Jacques Derrida (1976; also Gasché, 1986), attempts to show the elements of radical undecidability to be found in all structural arrangements (in a way not dissimilar to the Gödel's theorem) and how no structure of signification can find in itself the principle of its own closure. The latter requires, consequently, a dimension of force which has to operate from outside the structure.

An entirely different approach to a theory of what he calls 'discursive formations' is to be found in the work of Michel Foucault. While both structuralism and post-structuralism start from the logic of the sign and its subversion once the conditions of total closure do not obtain, Foucault's starting point is a second-level phenomenology trying to isolate the totalities within which any production of meaning takes place. Classical phenomenology had focused on the meaning of statements by bracketing their reference to any external reality. Foucault proceeds to a second bracketing by showing that meaning itself presupposes conditions of production which are not themselves reducible to meaning. This 'quasi-transcendental' move leads to the isolation of a stratum of phenomena which Foucault calls discourse. The central problem in his analysis is to determine what constitutes the unity and principle of coherence of a discursive formation. The minimal unit of any discourse is, for Foucault, the *statement* (*énoncé*). A statement cannot be considered as a proposition because the same proposition can involve two different statements (both I and a doctor can say that somebody has a cancer, but only the latter's proposition can be considered as a medical statement). It cannot be considered as an utterance either, because different utterances can involve the same statement. Finally, statements cannot be identified with speech-acts, given that the former are restricted by Foucault to what he calls 'serious speech-acts' – those that are not ordinary, everyday speech-acts, but are constituted through an authoritative or autonomous activity (like the medical discourse). But this is just to put the same problem in a different way: what constitutes the principle of unity of a particular discursive field or formation? For a while Foucault played with the idea of finding this principle of unity

in what he called an *episteme*: a basic outlook which unifies the intellectual production during a certain age. 'By *episteme* we mean . . . the total set of relations that unite, at a given period, the discursive practices that give rise to epistemological figures, sciences, and possibly formalized systems' (Foucault, 1972, p. 191). In this sense he tried to isolate the basic *epistemes* of the ages that he conventionally called the Renaissance, the Classical Age and Modernity (Foucault, 1973). The intellectual operation of uncovering these basic discursive strategies is what he called *archaeology*. But the main trend of his thought led him to the increasing realization that the heterogeneity of a discursive formation cannot be reduced to such a simple principle of unity. So, he concluded that the principle of unity of a discursive formation cannot be found in the reference to the same object, or in a common style in the production of statements, or in the constancy of the concepts, or in the reference to a common theme, but in what he called 'regularity in dispersion' – the constancy in the external relations between elements which do not obey any underlying or essential principle of structuration. However, if regularity in dispersion is the only principle of unity of a discursive formation, what remains open is the question of the frontiers between discursive formations, a question to which Foucault, at this stage, was unable to give any precise answer.

Discourse Theory and Politics

The main contributions of discourse theory to the field of politics have been linked so far to the conceptualization of power. The same broad division pointed out earlier applies here: we have, on the one hand, analysts whose theoretical roots are to be found in the post-structuralist theory of the sign and, on the other, those which are mainly linked to the reformulation of Foucault's intellectual project in his later work.

The first tendency can be found especially in the work of Laclau and Mouffe (Laclau and Mouffe, 1985; Laclau, 1990). Two aspects of the post-structuralist tradition have been important in their formulation of an approach to political power centred in the category of *hegemony*. The first is the notion of 'discourse' as a meaningful totality which transcends the distinction between the linguistic and the extra-linguistic. As we have seen, the impossibility of a closed totality unties the connection between signifier and signified. In that sense there is a proliferation of 'floating signifiers' in society, and political competition can be seen as attempts by rival political forces to partially fix those signifiers to particular signifying configurations. Discursive struggles about the ways of fixing the meaning of a signifier like 'democracy', for instance, are central to explaining the political semantics of our contemporary political world. This partial fixing of the relation between signifier and signified is what in these works is called 'hegemony'. The second aspect in which post-structuralism contributes to a theory of hegemony is closely connected with the first. As we have seen, deconstruction shows that the various possible connections between elements of the structure are, in their own terms, undecidable. As, however, one configuration rather than the other possible ones has been actualized, it follows: (1) that the actually existing configuration is essentially contingent: (2) that it cannot be explained by the structure itself but by a force which has to be partially external to the structure. This is the role of a hegemonic force. 'Hegemony' is a theory of the decisions taken in an undecidable terrain. The conclusion is, as

deconstruction shows, that as undecidability operates at the very ground of the social, objectivity and power become indistinguishable. It is in these terms that it has been asserted that power is the trace of contingency within the structure (Laclau, 1990). Laclau and Mouffe present a history of Marxism, from the Second International to Gramsci, as a progressive recognition of the contingent character of social links which had previously been considered as grounded in the necessary laws of History. This is what has extended always further the area of operativity of hegemonic links.

There has also been an important attempt by Slavoj Žižek (1989) to extend discourse theory to the field of political analysis through an approach which brings together Lacanian psychoanalysis, Hegelian philosophy and some trends in analytical philosophy, especially Saul Kripke's anti-descriptivism. The central aspect of Žižek's approach is his attempt to reintroduce the category of the subject without any kind of essentialist connotation. His 'subject' is not the substantial *cogito* of the philosophical tradition of modernity, but it is not either the dispersion of *subject positions* that structuralism had postulated. The subject is rather – following Lacan – the place of the *lack*, an empty place that various attempts at identification try to fill. Žižek shows the complexity involved in any process of *identification* (in the psychoanalytic sense) and attempts to explain on that basis the constitution of political identities.

The later work of Foucault (1979; 1980) was an attempt to deal with the difficulties to which his analysis of discursive formations had led. Foucault had defined the realm of discourse as just one object among others. Discourse related to the statement as one object of analysis sharply separated from the others: discursive regularities did not cut across the frontier between the linguistic and the non-linguistic. As a result, the presence of certain discursive configurations had to be explained in terms which for him were extra-discursive. This led to a new kind of approach, which he called *genealogy*. While archaeology *presupposed* the unity of a discursive field which could not appeal to any deeper principle of unification, genealogy tried to locate the elements entering a discursive configuration within the framework of a discontinuous history whose elements did not have any principle of teleological unity. The external character of the unifying forces behind the genealogical dispersion of elements is at the basis of the Foucauldian conception of power: power is ubiquitous because elements are discontinuous, and their being linked is nothing that we can explain out of the elements themselves. So, while post-structuralism and genealogy both deal with the question of discontinuity and its production out of unsutured identities, they approach discontinuity from two different angles: in the first case it is a question of extending the category of discourse to the point in which it embraces its radical other – i.e. it is a question of showing the working of a logic of *difference* which cuts across any distinction between the linguistic and the non-linguistic; in the second case it is a question of showing how linguistic regularities depend on putting together elements which can only be conceived in non-discursive terms.

References

Barthes, R.: *Elements of Semiology*, trans. A. Lavers and C. Smith (New York: Hill and Wong, 1968).

—: *Mythologies*, trans. A. Lavers (London: Jonathan Cape, 1972).
—: *S/Z* (London: Jonathan Cape, 1974).
—: *The Fashion System*, trans. M. Ward and R. Howard (New York: Hill and Wang, 1983).
Derrida, J.: *Of Grammatology*, trans. G. C. Spivak (Baltimore, Md.: Johns Hopkins University Press, 1976).
Ducrot, O. and Todorov, T.: *Encyclopedic Dictionary of the Sciences of Languages* (Baltimore, Md.: Johns Hopkins University Press, 1979).
Foucault, M.: *The Archaeology of Knowledge*, trans. A. M. Sheridan Smith (London: Tavistock, 1972).
—: *The Order of Things: An Archaeology of the Human Sciences* (New York: Pantheon, 1973).
—: 'Nietzsche, genealogy and history', in *Michel Foucault: Language, Counter-Memory, Practice: Selected Essays and Interviews*, ed. D. F. Bouchard (New York: Vintage Books, 1977).
—: *Discipline and Punish: The Birth of the Prison*, trans. A. Sheridan (New York: Vintage, 1979).
—: *The History of Sexuality,* vol. I: *An Introduction*, trans. R. Hurley (New York: Pantheon, 1980).
Gasché, R.: *The Tain of the Mirror* (Cambridge, Mass.: Harvard University Press, 1986).
Hjelmslev, L.: *Prolegomena to a Theory of Language*, trans. F. A. Whitfield (Madison: University of Wisconsin Press, 1961).
—: *Language: An Introduction*, trans. F. A. Whitfield (Madison: University of Wisconsin Press, 1970).
Kristeva, J.: *Semeiotike* (Paris: Editions du Seuil, 1969).
Lacan, J.: *Ecrits. A Selection*, trans. A. Sheridan (New York: Norton, 1977).
Laclau, E.: *New Reflections on the Revolution of Our Time* (London: Verso, 1990).
Laclau, E. and Mouffe, C.: *Hegemony and Socialist Strategy*: *Towards a Radical Democratic Politics* (London: Verso, 1985).
de Saussure, F.: *Course in General Linguistics*, trans. C. Bailey and A. Sechehaye (New York: McGraw-Hill, 1959).
Wittgenstein, L.: *Philosophical Investigations* (Oxford: Blackwell, 1983).
Žižek, S.: *The Sublime Object of Ideology* (London: Verso, 1989).

Chapter 28

Distributive Justice

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The Concept of Justice

The word 'justice' is used in several different ways. First, justice is sometimes understood as *moral permissibility* applied to distributions of benefits and burdens (e.g., income distributions) or social structures (e.g., legal systems). In this sense, justice is distinguished by the kind of entity to which it is applied, rather than a specific kind of moral concern.

Second, justice is sometimes understood as *legitimacy*, understood as the impermissibility of forcible interference by others. Permissible actions are typically legitimate, but some impermissible actions may also be legitimate (e.g., failing to keep a minor promise). In this sense, justice is concerned with the permissibility of the actions of others (their forcible interference) rather than with the permissibility of the action assessed for justice.

Third, justice is sometimes understood as *comparative fairness* – for example, as requiring that individuals get the same proportion of what they are due. Justice in this sense does not require that individuals get all that they are due; it merely requires, for example, that, if one person gets 10 per cent of what she is due, then so do all others. The notion of being due something is ambiguous between what is owed as a matter of moral right and what is morally deserved (or 'fitting'). Thus, comparative fairness is similarly ambiguous.

Fourth, justice is sometimes understood as *fairness*, understood as requiring that individuals get what they are due. Unlike comparative fairness, (full) fairness requires that individuals get all that they are due (and not merely the same proportion as others).

Finally, justice is sometimes understood as *what we morally owe each other*, where this is a matter of respecting each person's rights. This is simply the above notion of justice as fairness relative to what is due *as a matter of right*. Justice in this sense may be sensitive to desert as a substantive matter – if people have a right to what they deserve – but it has no necessary connection with desert.

In general, I shall focus on justice as what we morally owe each other. I shall therefore briefly elaborate on this concept of justice. As long as rights are understood very broadly as – perhaps pro tanto and highly conditional – constraints protecting the

right-holder's interests and/or will, justice as what we owe each other is compatible with a broad range of theories. Rights, in this very weak sense, need not be absolute or even trumps over other moral considerations. They are merely those considerations that determine when a person is pro tanto wronged. So understood, rights are merely the correlates of the pro tanto duties that we owe to individuals – as opposed to the impersonal duties that we may have. (For a superb analysis of rights, see Kramer et al., 1998.)

Here, it is important to distinguish between duties *owed to* someone and duties *with respect* to someone. Personal duties are sensitive to the interests and/or wills of individuals in ways that impersonal duties (owed to no one) are not. Justice as what we owe each other is only concerned with the duties owed to individuals and not with impersonal duties. If there are no impersonal duties, then justice in this sense is extensionally equivalent to moral permissibility.

Justice as what we owe each other can be understood broadly as that which violates no one's rights or narrowly as that which violates no one else's rights. If there are no duties to self, then justice in the narrow sense is extensionally equivalent to justice in the broad sense.

The above list of some common senses of 'justice' is not meant to be exhaustive. It is merely meant to highlight the importance of being clear about what we mean before entering debates about what makes something just (the grounds of justice).

Sometimes a distinction is made between *distributive justice* and *corrective* (*commutative, rectificatory*) *justice*. The former is concerned with the distribution of benefits and burdens in the absence of past wrongdoing and the latter is concerned with how to respond to past wrongdoing (e.g., punishment and compensation). A full theory of justice must, of course, include both components. In general, I shall assume that we are considering full theories of justice – although little will be said here about corrective justice.

A distinction can also be made between ideal and practical justice. *Ideal justice* is what full justice requires in the absence of any empirical constraints (such as limited resources), whereas *practical justice* focuses on what is (perhaps imperfectly) just relative to a given feasible set of options. Suppose, for example, that one must choose between distribution 2–1 (2 units of benefit to first person, and 1 unit to second person) and 3–0. If justice requires equality, then neither is ideally just, but the first would be practically just, since it is the most equal feasible distribution. Ideal justice may be a useful concept for some purposes but, in general, questions of justice are practical questions (i.e., relative to feasible constraints), and in what follows I shall focus on practical justice.

Although justice is typically construed *deontically* (i.e., as permitting some things and forbidding others), it is also sometimes construed *axiologically* (i.e., as holding that some things are more just than others). For simplicity, I shall focus primarily on the deontic conception of justice.

Justice can assess many different kinds of object: actions, the character of agents, social institutions, basic social structures (e.g., constitutions) and distributions of goods. For simplicity, I shall focus on the justice of actions.

Before examining three main theories of justice, we shall examine three generic issues: (1) What kinds of individual are protected by justice? (2) What kinds of benefits

and burdens are relevant for justice? (3) What are some of the main patterns of distribution that have been invoked by theories of justice?

To Whom is Justice Owed?

What kinds of beings have 'justicial standing'? To whom, that is, is justice owed? Stated otherwise: what kinds of beings have rights? As a substantive matter, it is relatively uncontroversial that contemporary, productive, rational agents of one's society have some kind of rights against one. Beyond that, there is much disagreement.

The most restrictive view – held by Hobbes ([1651] 1990), Buchanan (1975) and Gauthier (1986) – is that justice is owed only to those rational agents with whom one interacts in a mutually beneficial way. According to this *mutual advantage view*, justice is not owed to any of the following: rational agents with whom one does not interact because they are very far away in space or time; rational agents with whom one interacts but from whom one derives no benefits from co-operation (e.g., perhaps certain severely physically disabled individuals); sentient but non-rational beings (e.g., many animals, children and severely demented adult humans). This is, needless to say, a rather radical view.

A slightly less restrictive view, *interactionism*, holds that duties of justice are owed to all and only those with whom one interacts in some suitably specified sense. This view agrees that interaction is crucial for determining who is owed a duty of justice, but it denies that mutual advantage is relevant. A common version, *statism*, understands interaction as a kind of political interaction and thus takes justice to be limited to fellow citizens (see, e.g., Dworkin, 1981a; 1981b; 1987). A different version understands interaction quite broadly (e.g., social, economic or political). In a world of increasing interaction between people of different countries, this version views justice as increasingly an international matter – although currently we would owe no justice to any beings who may exist on other planets.

The broadest view of justicial standing, *cosmopolitanism*, denies the relevance of interaction for at least some of the duties of justice. Justice is owed to all beings in the world who have the requisite psychological make-up and existential status (e.g., Pogge, 1992; Buchanan, 1995). On some cosmopolitan views, the requisite make-up is rational agency (which excludes most animals and children); on other cosmopolitan views, sentience or having relevant interests is the requisite make-up.

In addition to the issue of requisite psychological make-up, different versions of cosmopolitanism require different kinds of existential status for justicial standing. There are two main dimensions: (1) When must the individual exist? Now, or at any time (past, present or future)? (2) How definite is the required existence for the individual to have justicial standing? One view, *presentism*, holds that only those who now exist are owed duties of justice. Past and future individuals are owed no duties of justice (although there may be impersonal duties concerning them). Another view, *definitism*, holds that duties of justice, at a given time, are owed to all and only those who, given the laws of nature and the circumstances, definitely exist (i.e., with certainty), at some point (past, present or future). Merely possible future individuals – those who may come into existence, but may not – are not owed duties of justice, but definite future

individuals – those who will definitely come into existence at some point – may be owed such duties. A third view, *empirical possibilism*, holds that, at a given time, all those who, given the laws of nature and the circumstances, might exist at some point are owed duties of justice.

Although definitism and empirical possibilism (as opposed to presentism) allow that dead individuals can have justicial standing, they do not require it. There may be additional conditions that must be satisfied: for example, that only individuals with the potential for current or future experience are owed duties of justice.

Independently of how the above issues are resolved, there is the further question of whether the beings to whom justice is owed are *temporally extended beings* (e.g., who are born and then live for many years) or *beings-at-a-time* (person-stages). The commonsense view, of course, is the former, but Parfit (1984) and McKerlie (1989) have suggested that beings-at-a-time may be the fundamental unit of moral concern. The difference between the views is significant. If, for example, justice requires equality of well-being, the temporarily-extended-being view would naturally (although with some additional assumptions) require that whole-life well-being be equal, whereas the beings-at-a-time view would require equality at each point in time. The whole-life view does not require equality at each point in time, since, if one life has had more well-being than another in the past, this could be offset by its having less well-being now or in the future.

All of the above assumes that those owed justice are individuals of some sort. This could, of course, be questioned. One might hold that justice is owed to groups of individuals. This might require, for example, equality among families, among ethnic groups, or between the sexes. The issue here, of course, concerns normative individualism versus normative collectivism.

Distribution of What?

What is the currency of justice? With what kinds of goods or benefits is justice concerned? Some of the main contenders are well-being (quality of life), initial opportunity for well-being, brute-luck well-being, resources, primary goods, capabilities, social/political status (respect) and freedom. The currency of justice issue has mainly been discussed in the context of egalitarian theories of justice, and, for simplicity, I shall tend to discuss in this context as well. The issue, however, is quite general.

One view is that the currency of justice is well-being (quality of life). Well-being can be interpreted as happiness, preference satisfaction, or some more objective (or perfectionistic) conception of quality of life (e.g., one that would include knowledge or friendship independently of their value for happiness). Given that well-being matters for its own sake, it is a natural candidate for being the good with which justice is concerned. It is, however, vulnerable to a powerful objection: it leaves no room for individuals being accountable for their past choices. Suppose that everyone starts with equal well-being and effectively equal opportunities and that this is just. Some individuals then wisely choose to invest in their future while others unwisely choose to live for the moment. Many years later, those who chose wisely are very well off, while those who chose unwisely are not. Equality of well-being requires that resources be transferred

from those who are well off to those who are poorly off, but this seems unjust. Individuals, it seems, should be accountable for their choices. Why should those who chose wisely have to share their resources with those who chose unwisely?

This objection – raised most forcefully by Dworkin (1981a; 1981b) – may seem to show that justice is ultimately concerned with the distribution of goods other than well-being. This inference, however, is mistaken. The point that individuals should (at least in principle) be accountable for their choices establishes that justice must be historical, that is, sensitive to how a given distribution of goods arose. It does not establish what kinds of goods are the relevant ones for justice. The problem can be avoided, for example, by holding that justice requires equality of initial opportunities for well-being rather than equality of well-being at each point in time. (See, for example, Arneson, 1989; 1990; Cohen, 1989; 1990; and Vallentyne, 2002.) Moreover, focusing on resources, for example, does not automatically solve the problem. Equality (or other distributive pattern) of resources *at each time* (as opposed to initially) also requires transferring resources from those who chose wisely to those who didn't.

One way, then, that a theory of justice can hold agents accountable for their choices is by being concerned with initial opportunities for goods rather than with outcomes. A second (closely related) way of leaving room for agent accountability – developed by Dworkin (1981b) – is by holding that justice is concerned only with the distribution of goods (of some specified sort) from *brute luck*. An outcome is a matter of brute luck, for a given individual, (roughly) just in case it is not reflective of her agency (e.g., not something that she could have foreseen or deliberately influenced). One's initial opportunities are, of course, a matter of brute luck, but so are unforeseeable lightning strikes later in life. Winning the lottery, on the other hand, is typically not a matter of brute luck (since it is normally a deliberate, calculated gamble).

A different reason for holding that justice is not concerned with well-being as such is the claim that individuals are responsible – and thus accountable – for their tastes or preferences. Rawls (1971), for example, defends the view that justice is concerned with the distribution of *social primary goods*, where these are social resources that any rational individual would want more of (such as opportunities, wealth and income). Dworkin (1981b) defends the view that justice is concerned with the distribution of the competitive value (based on supply and demand) of resources. Both views hold that the relevant value (for justice) of goods is their 'general' (or social) value – as opposed to the value that the recipient attaches to the goods. By appealing to general (social) measures of value, and ignoring the value for the affected individual, these approaches hold individuals accountable for any idiosyncrasies in their tastes or preferences.

To the extent that individuals deliberately modify their tastes (or preferences), it may well be that individuals should be accountable for such modifications. A person who deliberately develops expensive tastes for wine is indeed (at least typically) responsible for that development, and justice is arguably not concerned with inequalities in well-being due to such development. The initial opportunity for well-being and brute-luck well-being views agree with this view. Matters are different, however, for tastes with which individuals start or that were imposed by external forces (e.g., the result of an unforseeable brain tumour). Many would argue that an individual who is born with an expensive taste that is not cheaply alterable (e.g., needing expensive antidepressants in order to be happy) is not accountable for the presence of that expensive

taste. It would be unjust, many would argue, to give the same external resources to this individual as to a similar individual who began life without this expensive taste. Thus, accountability for one's tastes generally is arguably implausible – since for many (perhaps most) tastes there is a significant component for which the agent is not responsible. On the other hand, agents surely are responsible, and hence accountable, for some aspects of their tastes. This does indeed show that *outcome* well-being is not the focus of justice. It does not, however, cast any doubt on the brute-luck well-being and initial opportunity for well-being views.

Sen (1980; 1985; 1993) and Nussbaum (1988; 1999) have argued that justice is concerned with the distribution of *capabilities*, which are the effective abilities (opportunities) of individuals to function. Functionings include both doings (such as singing) and states of being (such as being happy). Sen rightly insists that the primary goods and competitive value of resources views fail to take into account how effectively an individual is able to make use of resources. One problem with appealing to capabilities, however, concerns the assessment of the relative importance of the very large number of capabilities that individuals could have. How important is the capability to wiggle one's nose compared with the capability to walk about easily? If the answer to this question is determined by how useful the capability is for well-being (having a good life), then the capability view may not be that different from the opportunity for well-being view (see, for example, Vallentyne, 2005).

Of course, capabilities need not be construed so broadly and need not be evaluated on the basis of their contribution to well-being. One might (see, for example, Anderson, 1999) limit capabilities to those that are necessary for (or at least contribute to) functioning as a *free and equal member of society*. On a narrow version – the political version – it is only one's ability to function politically in society that is relevant. On a broader version – the social version – one's ability to function as a member of society more generally is considered. On both views, one's social status (e.g., respect from fellow citizens) is important for one's ability to function effectively. Obviously, a lot turns on what it is to function as a free and equal member of society, but I shall not here attempt to unpack this notion.

Independently of whether justice is generically concerned with the distribution of well-being, initial opportunity for well-being, brute-luck well-being, brute luck resources, etc., there is a further issue. Is justice concerned with these items as such, or only with the component thereof that was *produced by agency* (e.g., as opposed to nature)? The relevant agency might only be that of the individual agent – and thus justice is concerned only with the distribution of goods that she brings about (as opposed to what she allows to happen). More widely, the relevant agency might be that of members of the agent's society (past or present). More widely still, the relevant agency could be that of human agency (anywhere at any time). All these views – see, for example, Buchanan, 1995 and Nagel, 1997 – agree that justice is not concerned with nature's distribution of goods (e.g., the distribution of genes in an age in which there is no social manipulation of this distribution).

There are, of course, many other views about the currency of justice. Here, I shall merely mention one other. It holds that justice is concerned with the distribution of *freedom*. If freedom is understood as the effective ability to get what one wants (positive freedom), then this may not be so different from the opportunity for well-being view or

the capability view. If, however, justice is understood as freedom from interference from others (negative freedom), then something like a form of libertarianism (discussed below) may result.

Patterns of Distribution: Equality, Priority, Sufficiency and Desert

Here, we shall briefly examine four of the main distribution patterns that have been invoked by theories of justice. Although each can be invoked as part of a deontological theory (e.g., an action is just if and only if it treats each person equally in some relevant respect), I shall focus, for simplicity, on their role in a consequentialist theory (e.g., an action is just if and only if its consequences maximize the equality of outcomes).

Egalitarianism holds that justice is concerned with equality of some relevant benefits. (See, for example, Rawls, 1971; Dworkin, 1981a; 1981b; 1987; Arneson, 1989; 1990; Cohen, 1989; 1990; Barry, 1989; 1995; Rakowski, 1991; Roemer, 1993; 1998; Temkin, 1993; Van Parijs, 1995.) *Pure* egalitarianism is a purely comparative theory: it is only concerned with how one person's benefits compare with those of others. It judges [0,0] (0 units of benefit for each of two people) as equally just as [90,90]. As a theory of comparative fairness, it is highly plausible in contexts in which everyone is owed the same level of benefits. If, however, justice is concerned with more than fairness, then it is implausible. *Pace* pure egalitarianism, if each person is owed 90, then [89,90] is more just (in the sense of giving people what they are owed) than [0,0]. Pure egalitarianism, however, holds that the former is less just, and requires 'levelling down' to [0,0]. For this reason, no one defends pure egalitarianism as a theory of what people are owed (as opposed to comparative fairness). This leaves open, however, that some kind of impure egalitarian theory (e.g., one that is also sensitive to promoting benefits) is a plausible view of what we owe each other. (See, for example, Tungodden and Vallentyne, 2005.)

A different way combining a special concern for those who are worse off with a concern for making people's lives better is *prioritarianism* (McKerlie, 1984; 1994; Parfit, [1991] 2000). Prioritarianism holds that the moral importance of getting the specified benefits is greater for those who have less. The moral importance of increasing a poorly off person's benefits by one unit, for example, is deemed to be greater than that of increasing a well-off person's benefits by one unit. One version of prioritarianism – invoked by Rawls (1971) in his Difference Principle – is *leximin* (for 'lexically maximize the minimum'), which holds that (1) the worst-off position(s) should be made as well off as possible; (2) in cases of ties, the second worst of position(s) should be made as well off as possible, and so on for the third, fourth, etc. worst-off position(s). It holds, for example, that [2,4] is more just than [1,900] – even though the latter has a much greater total.

Leximin gives, in effect, infinitely greater weight to the benefits of a worse-off person. It holds that giving any benefit – no matter how small – to a worse-off person is better than giving a benefit – no matter how large – to a better-off person. Many object to this

view on the ground that justice sometimes requires giving large benefits to many others rather than a small benefit to one worse-off person.

Another form of prioritarianism, *finitely weighted prioritarianism*, gives only finitely more weight to benefits for those who are worse off. Like leximin, it favours giving a benefit to a worse-off person rather than to a better-off person. Unlike leximin, however, it sometimes requires giving *larger* benefits to those who are better off rather than *smaller* benefits to those who are worse off (e.g., it could judge [1,5] as more just than [2,2]). It will do this when the extra weight assigned to the worse off is offset by the larger benefit that the better off will get. (Arneson, 2000 endorses an impure version of finitely weighted prioritarianism: he also weights benefits by the degree to which they are deserved.)

Pure egalitarianism is concerned with the purely comparative concern of giving people equal shares, whereas prioritarianism is concerned with making people's lives go better, with greater importance assigned to lives that are going less well. A third view, *sufficientarianism*, holds that justice requires that everyone get a sufficient (or adequate) amount of the specified goods, but equality – or even benefit promotion – is not required beyond that (see Frankfurt, 1987). The sufficiency view is closely related to the view that justice requires merely that needs be satisfied – since a natural specification of the adequacy level is as the minimum level at which (normally) all basic needs are satisfied. This, of course, raises the question of what needs are (as opposed to wants) (see Braybrooke, 1987; Copp, 1992).

Egalitarianism, prioritarianism and sufficientarianism each give a certain priority to benefits to those who are *worse off* – at least when they are below average and below the adequate level. This priority in no way depends on how deserving the individuals are. A different approach to justice takes it to be concerned with ensuring that people get what they *deserve* (see, for example, Sher, 1987; Feldman, 1997; Pojman and McCleod, 1999; Arneson, 2000; Olsaretti, 2003).

There is a variety of views about the *desert basis*, that is, what determines how deserving people are. One could hold that desert is based on features of individuals that have nothing to do with their characters or agency (e.g., those of aristocratic families deserve more than others), but almost everyone agrees that desert must be based on something related to character or agency. Some might hold that desert is based on how virtuous one's character is independently of what choices one has made, but most agree that it is somehow based on the desirability of the agent's past choices. Thus, for example, effort and contribution are often taken to be desert bases. Even here, however, there is disagreement. Agents may, as a matter of brute luck (e.g., genes at birth), differ in their abilities to make an effort or a contribution. Given that they don't deserve these abilities, they don't deserve, it has been argued, the benefits that flow from their exercise.

Equality, priority, sufficiency and desert, then, are some of the main distributive patterns that are invoked by theories of justice. As we shall see below, some theories of justice deny that there is any distributive pattern that is required in principle by justice. Instead, it may simply be whatever patterns maximize total benefits, would be agreed to under suitable conditions, or emerge from the free exercise of people's property rights.

Theories of Justice

Depending on how justice is understood, almost any theory of morality can be reformulated as a theory of justice. Below I shall outline three of the main theories, and, for simplicity, formulate them as theories of justice of actions (rather than, for example, social structures). Although I shall identify some of the main objections to each view, space limitations prevent me from discussing them at length.

Utilitarianism and consequentialism

Utilitarianism – see, for example, Smart and Williams (1973) – comes in two main forms. *Act utilitarianism* holds that an act is just if and only if it maximizes the total well-being in the world. *Rule utilitarianism* holds that an act is just if and only if it conforms to rules that, if generally followed (or satisfying some related condition), would maximize the total well-being in the world. Utilitarianism is compatible with many different accounts of well-being (quality of life). Some of the main contenders are net balance of pain over pleasure, happiness, preference satisfaction, and various perfectionistic theories that appeal to some kind of objective conception of human flourishing.

Act utilitarianism tough-mindedly focuses on the consequences of actions, evaluates them on the basis of something that clearly matters (well-being), and requires that individuals do the best they can. Something about this seems right. Nonetheless, act utilitarianism is subject to several important objections: (1) it is too demanding (since, by requiring the total to be maximized, it leaves almost no room for benefiting oneself – watching TV, for example – or one's friends and family); (2) it provides too little protection from forcible interference from others (since it allows horrible things to be done to individuals – such as torturing the innocent – when this is an effective means for maximizing total well-being); (3) it is insensitive to what the past was like (since it focuses solely on the future consequences and thus is not sensitive to what promises and contracts were made, what wrongdoings took place, etc.); (4) it is insensitive to distributive considerations (e.g., it requires an action that produces a very unequal distribution of well-being when the only feasible alternative is an equal distribution with a slightly lower total).

None of these objections is fatal, since act utilitarians have ways of softening or denying their problematic implications. Some utilitarians, however, endorse these objections against act utilitarianism and propose rule utilitarianism instead. Given that the rules that will best promote total well-being will probably leave agents a reasonable amount of liberty, give them a reasonable amount of protection from forcible interference and be sensitive to the past, rule utilitarianism is largely immune to the first three objections. Moreover, if the focus on the *total* well-being is replaced with a view that is sensitive to distributive considerations (e.g., equality, priority, sufficiency or desert), the resulting theory will be sensitive to distributive considerations and can largely avoid the fourth objection. The resulting theory, however, is no longer a version of utilitarianism, since it has abandoned assessing distributions on the basis of *total* well-being. Instead, it is a version of *rule consequentialism*, which is like rule

utiltarianism, except that it leaves open how consequences are assessed (see, for example, Hooker, 2000).

Rule consequentialism, then, can overcome most of the problems confronting act utilitarianism. It confronts, however, one main objection: does justice really require obeying some optimal rule even when doing so would have bad consequences in particular circumstances? The question here is whether the justice of an action is based on the desirability of its consequences or on that of rules to which it conforms. To many, the focus on the consequences of rules generally – rather than of the specific action that the agent performs – seems like a form of 'rule worship'.

Contractarianism

Contractarian (contractualist) theories of justice hold that an action is just if and only if it, or principles to which it conforms, would be agreed to (or at least not rejected) by the members of society under certain specified conditions. Most contractarian theories are *indirect* in that they first select principles (or rules) on the basis of the hypothetical agreement and then assess actions in terms of their conformance to those principles. Although contractarianism is sometimes construed broadly to include theories based on *actual agreement*, it is confusing to lump these two kinds of theories together. The moral force of actual agreement is much clearer than that of hypothetical agreement. We shall here consider only hypothetical agreement theories – although, in the next section, we will consider libertarian theories, which take actual agreement very seriously.

Contractarian theories differ in their specification of the conditions under which the hypothetical agreement is to take place. There are three main issues. (1) What is the non-agreement outcome (what happens if they fail to agree)? (2) What beliefs do the contractors have about themselves and their position in society? (3) What kinds of desires do the contractors have (e.g., purely self-interested vs. partially altruistic desires) and on what basis do they choose (e.g., on the basis of expected utility)? Broadly speaking, there are three main traditions in how these questions are answered: Hobbesian, Lockean and Kantian.

Hobbesian theories (following Hobbes, [1651] 1990) tend to hold that the non-agreement outcome is some non-moral and fairly miserable state of nature. The contractors are assumed to have their normal beliefs about their capacities and position in society, and they are assumed to be purely, or at least predominantly, self-interested (see, for example, Buchanan, 1975). *Lockean* theories (following Locke, [1689] 1963) have a similar view, except that they view the non-agreement outcome as a moral state of nature in which people have basic rights that are generally respected, but in which various public goods are not provided (see, for example, Gauthier, 1986 – although his view also has significant Hobbesian elements).

Kantians (following Kant, [1785] 1997) differ from both Hobbesians and Lockeans in that they impose conditions that ensure that the contractors choose without special consideration for their own interests. One Kantian, Rawls (1971), specifies that the contractors are behind a 'veil of ignorance', where this means that they know nothing about their capacities or their place in society. Each chooses on the basis of her self-interest, but, since she does not know specifically what that is, each chooses on the

basis of general considerations that apply equally to all. A different kind of Kantian view is defended by Scanlon (1998). It allows that agents have their normal beliefs, but stipulates that, for the purpose of the contract, agents choose principles for the general regulation of behaviour that others, similarly motivated, could not reasonably reject as a basis for informed, unforced, general agreement.

One of the strengths of contractarianism is that, by requiring unanimity, it takes the separateness of individuals seriously. Each person must agree. This arguably ensures that each individual has significant moral liberty to pursue her own projects and significant protection from interference from others. It also arguably ensures that justice is sensitive to the past and to distributive considerations. Kantian contractarianism tends to be more egalitarian than Lockean contractarianism, which in turn tends to be more egalitarian than Hobbesian contractarianism. The main objection to contractarianism is that it is unclear why hypothetical (as opposed to actual) agreement carries any normative force. For example, does the fact that, under suitable conditions, I would have agreed to your borrowing my car justify your taking it without even discussing it with me? Moreover, hypothetical agreement is arguably simply a device for identifying what is a just distribution of benefits on independent substantive grounds. If so, then it is really the underlying distribution of benefits that is doing the moral work – not the hypothetical agreement.

Libertarianism

Libertarianism focuses on individual liberty and freedom from interference. It holds that an action is just if and only if it violates no one's libertarian rights – where these are rights derived from the exercise of initial *full self-ownership* and of a *moral power to acquire property rights* in unowned external (non-agent) things.

The core idea of full self-ownership is that agents own themselves in just the same way that they can fully own inanimate objects. This maximal private ownership includes (1) full *control rights* over (i.e., power to grant and deny permission for) the *use* of their persons (e.g., what things are done to them); (2) full *compensation rights* (which require others to compensate them if they violate their rights); (3) full *rights to transfer* the rights they have to others (by sale, rental, gift or loan). It also includes various enforcement rights and immunities to loss.

At the core of full self-ownership are control rights over the use of one's person. Killing, torturing or enslaving innocent individuals without their consent, for example, are unjust no matter how effective these actions are as means to equality or other moral goals. Moreover, there are various things (such as physical contact of various sorts) that are unjust when done to an agent without his/her consent, but which are just when the agent gives his/her consent.

Two versions of libertarianism have come to be distinguished. Both hold that agents fully own themselves; they differ in their views about the powers agents have to acquire private property in the rest of the world. *Right-libertarianism* (e.g., Nozick, 1974; Rothbard 1978; 1982), which is the traditional form of libertarianism, holds that natural resources – resources that were not created by any human agent – may be privately appropriated without the permission of, or any significant payment to, the members of society. It views natural resources as essentially up for grabs by the first

person who discovers, claims or (depending on the account) mixes her labour with them (perhaps subject to some weak version of a proviso that enough and as good be left for others).

Left-libertarianism, by contrast, holds that natural resources are owned in some egalitarian manner. This egalitarian ownership can take many forms (see for example, Cohen, 1995; Vallentyne and Steiner, 2000a; 2000b). A common form is the view that natural resources may be privately appropriated, just as right-libertarians claim, except that agents must pay the competitive value (based on supply and demand) of the rights that they claim over natural resources. Rights over resources that no one wants require little or no payment, but rights over resources that many people want may be very expensive. The social fund generated by such payments is then divided up in some egalitarian manner. Here, again, this can take several forms. One (e.g., Steiner, 1994) is to divide the pot equally. Another (e.g., Otsuka, 2003) is to divide it so that it best promotes equality of some specified sort (e.g., effective opportunity for well-being).

Libertarianism leaves agents lots of moral liberty to choose how to live their lives (since many actions violate no libertarian rights) and provides lots of protection from interference (from the rights of self-ownership and rights in external resources). It is also sensitive to the past because current rights depend on the past in a variety of ways: who initially acquired property rights in what external things, who transferred their rights to others, and who violated the rights of others. Right-libertarianism, however, is subject to the objection that it is insufficiently sensitive to distributive considerations – since it is compatible with great inequalities in wealth and opportunity for well-being. Left-libertarianism, on the other hand, is much more sensitive to distributive considerations (e.g., requiring that the value of natural resources be divided equally, or perhaps even to promote equality of opportunity). If it holds that agents have an enforceable duty to share the value of natural resources equally, however, left-libertarianism may be subject to the objection that it leaves agents insufficient liberty or protection from interference.

Other theories of justice

The above theories are arguably the three most prominent theories of justice. Other theories include dialogue/discourse theories (e.g., Habermas, 1973; Ackerman, 1980) and communitarian theories (e.g., Walzer, 1983; Sandel, 1997). There are, of course, many others as well.

References

Ackerman, B.: *Social Justice in the Liberal State* (New Haven, Conn.: Yale University Press, 1980).

Anderson, E.: 'What is the point of equality?', *Ethics*, 109 (1999), 287–337.

Arneson, R.: 'Equality and equal opportunity for welfare', *Philosophical Studies*, 56 (1989), 77–93.

—: 'Liberalism, distributive subjectivism, and equal opportunity for welfare', *Philosophy and Public Affairs*, 19 (1990), 158–94.

—: 'Luck egalitarianism and prioritarianism', *Ethics*, 110 (2000), 339–49.
Barry, B.: *Theories of Justice* (Berkley, Calif.: University of California Press, 1989).
—: *Justice as Impartiality* (Oxford: Clarendon Press, 1995).
Braybrooke, D.: *Meeting Needs* (Princeton, NJ: Princeton University Press, 1987).
Buchanan, A.: 'Justice as reciprocity versus subject-centered justice', *Philosophy and Public Affairs*, 19 (1990), 227–52.
—: 'Equal opportunity and genetic intervention', *Social Philosophy and Policy*, 12 (1995), 105–35.
Buchanan, J.: *The Limits of Liberty: Between Anarchy and Leviathan* (Chicago, Ill.: University of Chicago Press, 1975).
Cohen, G. A.: 'On the currency of egalitarian justice', *Ethics*, 99 (1989), 906--44.
—: 'Equality of what? On welfare, goods, and capabilities', *Recherches Economiques de Louvain*, 56 (1990), 357–82. (Reprinted in *The Quality of Life*, ed. M. Nussbaum and A. Sen [Oxford: Oxford University Press, 1993], pp. 9–29.)
—: *Self-Ownership, Freedom, and Equality* (Cambridge: Cambridge University Press, 1995).
Copp, D.: 'The right to an adequate standard of living: autonomy and the basic needs', *Social Philosophy and Policy*, 9 (1992), 231–61.
Dworkin, R.: 'What is equality? Part 1: Equality of welfare', *Philosophy and Public Affairs*, 10 (1981a), 185–245. (Reprinted with minor changes in R. Dworkin, *Sovereign Virtue* [Cambridge, Mass.: Harvard University Press, 2000].)
—: 'What is equality? Part 2: Equality of resources', *Philosophy and Public Affairs*, 10 (1981b), 283–345. (Reprinted with minor changes in R. Dworkin, *Sovereign Virtue* [Cambridge, Mass.: Harvard University Press, 2000].)
—: 'What is equality? Part 3: The place of liberty', *Iowa Law Review*, 73 (1987), 1–54. (Reprinted with minor changes in R. Dworkin, *Sovereign Virtue* [Cambridge, Mass.: Harvard University Press, 2000].)
Feldman, F.: *Utilitarianism, Hedonism, and Desert* (Cambridge: Cambridge University Press, 1997).
Frankfurt, F.: 'Equality as a moral idea', *Ethics*, 98 (1987), 21–43.
Gauthier, D.: *Morals by Agreement* (London: Oxford University Press, 1986).
Habermas, J.: *Legitimation Crisis* (Boston, Mass.: Beacon Press, 1973).
Hobbes, T.: *Leviathan* [1651], ed. R. Tuck (Cambridge: Cambridge University Press, 1990).
Hooker, B.: *Ideal Code, Real World* (Oxford: Oxford University Press, 2000).
Kant, I.: *Groundwork for the Metaphysics of the Morals* [1785] trans. and ed. M. Gregor (New York: Cambridge University Press, 1997).
Kramer, M. H., Simmonds, N. E. and Steiner, H.: *A Debate over Rights* (Oxford: Oxford University Press, 1998).
Locke, J.: *Two Treatises of Government* [1689], ed. P. Laslett (New York: Cambridge University Press, 1963).
McKerlie, D.: 'Egalitarianism', *Dialogue*, 23 (1984), 223–38.
—: 'Equality and time', *Ethics*, 99 (1989), 475–91.
—: 'Equality and priority', *Utilitas*, 6 (1994), 25–42.
Nagel, T: 'Justice and nature', *Oxford Journal of Legal Studies*, 17 (1997), 303–21.
Nozick, R.: *Anarchy, State, and Utopia* (New York: Basic Books, 1974).
Nussbaum, M.: 'Nature, function, and capability: Aristotle on political distribution', *Oxford Studies in Ancient Philosophy*, supplementary volume (1988).
—: 'Women and cultural universals', ch. 1 of *Sex and Social Justice* (New York: Oxford University Press, 1999).
Olsaretti, S.: *Desert and Justice* (Oxford: Oxford University Press, 2003).
Otsuka, M.: *Libertarianism without Inequality* (Oxford: Clarendon Press, 2003).

Parfit, D.: *Reasons and Persons* (Oxford: Oxford University Press, 1984).
—: 'Equality or priority?' [1991], in *The Ideal of Equality*, ed. M. Clayton and A. Williams (New York: St. Martin's Press, 2000), pp. 81–125.
Pogge, T. W.: 'Cosmopolitanism and sovereignty', *Ethics*, 103 (1992), 48–75.
Pojman, L. P. and McLeod, O., eds: *What Do We Deserve? A Reader on Justice and Desert* (Oxford: Oxford University Press, 1999).
Rakowski, E.: *Equal Justice* (New York: Oxford University Press, 1991).
Rawls, J.: *A Theory of Justice* (Cambridge, Mass.: Harvard University Press, 1971).
Roemer, J.: *Equality of Opportunity* (Cambridge, Mass.: Harvard University Press, 1998).
Roemer, R.: 'A pragmatic theory of responsibility for the egalitarian planner', *Philosophy and Public Affairs*, 22 (1993), 146–66.
Rothbard, M.: *For a New Liberty: The Libertarian Manifesto*, rev. edn (New York: Libertarian Review Foundation, 1978).
—: *The Ethics of Liberty* (Humanities Press, 1982).
Sandel, M. J.: *Liberalism and the Limits of Justice*, 2nd edn (Cambridge: Cambridge University Press, 1997).
Scanlon, T. M.: *What We Owe to Each Other* (Cambridge, Mass.: Belknap Press of Harvard University Press, 1998).
Sen, A.: 'Equality of what?', in *The Tanner Lectures on Human Values*, vol. 1, ed. S. McMurrin (Salt Lake City: University of Utah Press, 1980), pp. 197–220. (Reprinted in A. Sen, *Choice, Welfare, and Measurement* [Oxford: Basil Blackwell, 1982], pp. 353–69.)
—: *Commodities and Capabilities* (Amsterdam: North Holland, 1985).
—: 'Capability and wellbeing', in *The Quality of Life*, ed. M. Nussbaum and A. Sen (Oxford: Clarendon Press, 1993).
Sher, G.: *Desert* (Princeton, NJ: Princeton University Press, 1987).
Smart, J. J. C. and Williams, B.: *Utilitarianism: For and Against* (Cambridge: Cambridge University Press, 1973).
Steiner, H.: *An Essay on Rights* (Cambridge, Mass.: Blackwell Publishing, 1994).
Temkin, L.: *Inequality* (Oxford: Oxford University Press, 1993).
Tungodden, B. and Vallentyne, P.: 'On the possibility of Paretian egalitarianism', *Journal of Philosophy*, 102 (2005), 126–54.
Vallentyne, P.: 'Brute luck, option luck, and equality of initial opportunities', *Ethics*, 112 (2002), 529–57.
—: 'Capabilities vs. opportunities for wellbeing', *Journal of Political Philosophy*, 13 (2005), 359–71.
Vallentyne P. and Steiner, H., eds: *The Origins of Left Libertarianism: An Anthology of Historical Writings* (New York: Palgrave, 2000a).
—: eds: *Left Libertarianism and Its Critics: The Contemporary Debate* (New York: Palgrave, 2000b).
Van Parijs, P.: *Real Freedom for All* (New York: Oxford University Press, 1995).
Walzer, M.: *Spheres of Justice* (New York: Basic Books, 1983).

Further reading

Arneson, R.: 'Equality of opportunity for welfare defended and recanted', *The Journal of Political Philosophy*, 7 (1999), 488–97.
Baker, J.: *Arguing for Equality* (New York: Verso, 1987).
Carens, J. H.: *Equality, Moral Incentives, and the Market* (Chicago, Ill.: University of Chicago Press, 1980).

Cohen, G. A.: 'Where the action is: on the site of distributive justice', *Philosophy and Public Affairs*, 26 (1997), 3–30.
Miller, D.: *Principles of Social Justice* (Cambridge, Mass.: Harvard University Press, 1999).
Murphy, L.: 'Institutions and the demands of justice', *Philosophy and Public Affairs*, 27 (1998), 251–91.
Vallentyne, P., ed.: *Equality and Justice*, 6 vols (London: Routledge, 2003).

Chapter 29

Efficiency

RUSSELL HARDIN

Introduction

In the vernacular, 'efficiency' typically concerns means. I can choose efficient rather than inefficient means to accomplish my ends. Or more generally, I can be efficient or inefficient in allocating my limited resources. If we could measure the aggregate utility or welfare of a society, as in Benthamite utilitarianism, we could say that a society is efficient in an analogous sense: it uses effective institutions to achieve the greatest possible welfare. But the normative notion of efficiency commonly in use in social and political theory today is about social choices without aggregative welfare measures. Efficiency is invoked as an alternative to such aggregative measures.

Without interpersonally comparable welfare measures we typically cannot say that one state of society has more welfare and is therefore better than another. But we might be able to say that in one state of society all are individually better off than they are in another state; or, more likely, we might be able to say that some are individually better off while none is worse off. Efficiency in this sense is a restricted form of welfare for contexts in which aggregative measures are impossible or meaningless.

As a welfare criterion, efficiency has taken two rough forms. The first, which we may call static efficiency, is merely the implication of subjective utility at the level of the individual in a market. Given our present holdings, we may be able to trade with each other to make both of us better off. The second form, which we may call dynamic efficiency, takes incentives for being productive into account in assessing the differential productivity of systems of production. Vilfredo Pareto focused on static efficiency. Thomas Hobbes, Ronald Coase and John Rawls have all been concerned with dynamic efficiency.

Heightened concern with efficiency has come into contemporary moral and political philosophy from standard economic debates over conflict between equity and efficiency and from law and economics, which arguably has become the most articulately developed area of contemporary moral, political and legal philosophy. The potential conflict between equity and productive efficiency is central to much of the discussion of distributive justice. The experience of communist nations seems to support concern with such conflict, although their recently troubled economic experience may have been grossly overdetermined.

A Brief History

We may begin the story of efficiency in moral and political philosophy with Hobbes. Hobbes supposed that almost everyone would be better off with government than without, and he therefore concluded we should have government. He also supposed we could not know very much about the specific or differential effects of one form of government or another, so that we must be very nearly indifferent about the actual choice. Moreover, he supposed that movements for reform of an actual government must risk descent into civil war and destructive anarchy, so that it is in our interest to keep an extant government rather than attempt to change it (Hardin, 1991). His conclusions from these assumptions presaged the rise of concern with efficiency when, about a century ago, the Benthamite vision of value theory failed. That vision was of additive, cardinal utility whose sum across persons could be maximized.

What we might call Hobbesian efficiency has much in common with and might be seen as a vague form of Pareto efficiency. Both Hobbes and Pareto insisted on grounding their value theoretic accounts in individuals. Pareto (sometimes) forcefully rejected aggregative utility and interpersonal comparisons. The idea of aggregate or summed welfare may never even have occurred to Hobbes, whose natural instincts are individualist and ordinalist. From cardinal, interpersonally comparable welfare measures, we could determine which of several alternative states of affairs is best simply by checking the sum of utilities to find which state has the greatest sum. From ordinal, individual assumptions without interpersonal comparability we cannot do such sums. We can only say that one state is better than another if everyone concerned is better off or, more weakly, if at least one is better off and none is worse off than in the first state.

During the nineteenth century, economists and utilitarians typically assumed cardinal, aggregative utility. This seemed to be an advance over earlier visions, such as that of Hobbes, because it allowed easy calculation, at least in principle. Often, the assumption of aggregative utility was coupled with the assumption that utility is objective, that it is a fixed measure of the goodness of an object. Developments in price theory in the latter half of the nineteenth century destroyed the view that utility is objective, external to the enjoying subject. For instance, the notion of the declining marginal utility of the consumption of any particular good implies that the utility is that of the subject, not of the object. But once utility was seen as subjective, it seemed obviously individualist and not aggregative. Eventually, it seemed even that it need not be cardinal for the individual, but merely ordinal. Hence, even though I may be able to tell you how I rank various alternative states of affairs, it might seem unclear what it would mean for me to give cardinal, additive weights to those states.

Cardinality was brought back for the individual's utility function in the analysis of risky choices. Suppose I face a choice between a lottery of a 10 per cent chance of outcome A with an associated 90 per cent chance of outcome B, on one hand, and a sure prospect of outcome C, on the other hand. I may be unable to decide unless I can attach cardinal values to A, B and C, so that I can evaluate the lottery over A and B and can compare the expected value of that lottery to the value of C. Remarkably, if I can give an ordinal ranking over these possible outcomes and over every probabilistic combination of them, then a cardinal measure of each can be inferred from my ordinal

rankings. But this does not yield Benthamite utility measurements for the society without the additional claim that values are interpersonally comparable.

Pareto

If we had a cardinal, interpersonally aggregative value theory, we could speak of efficiency of a group or society in terms analogous to those we use for an individual. If such a theory is ruled out, we might therefore seem to have no notion of efficiency. Perhaps we could make no claims of simple utility or welfare to justify choosing one policy over another. Pareto ([1927], 1971) proposed a principle that would give us some purchase on such choices. The principle is the family of what have since come to be called Pareto efficiency, Pareto superiority and Pareto improvement.

If you and I have some distribution of commodities, it may be possible for us to trade with each other to make both of us better off. Eventually we may reach a state from which it is no longer possible to enter trades without making at least one of us worse off. Each of our trades is a *Pareto improvement*; the result of one of our trades is to produce a state of *Pareto superiority* over the state before the trade; and the end result of a sequence of trades from which no further trade can produce a Pareto improvement is *Pareto efficient*. In Figure 29.1, your evaluation of various distributions of all of our initial holdings is represented on the x-axis and mine is represented on the y-axis. Suppose we start at the distribution at the origin, o. The curve ab is the *Pareto frontier* if it represents all of the states in which we could possibly achieve Pareto efficiency. If we trade to reach point p, our Pareto frontier is reduced to the segment RS.

There are three peculiarities of this vision of our interests. First, distribution p is neither better nor worse than distribution q. To move from one of these to the other is

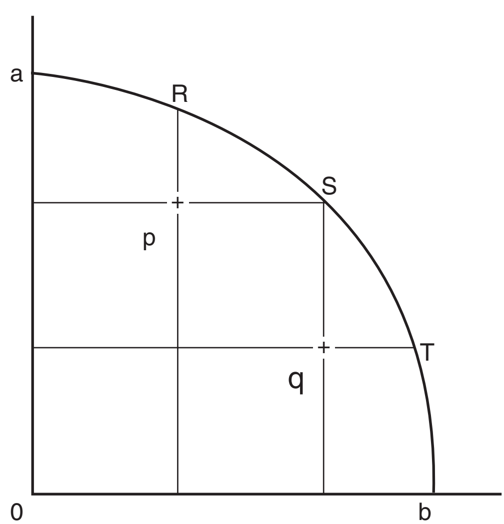


Figure 29.1 Pareto frontier and two interior points, p and q

not a Pareto improvement. The same is true of all of the points on the frontier. None of them is superior to any other and there is no way to make a Pareto improving move from one of them to another. Hence, the Pareto principle is often indeterminate in the sense that it cannot rank certain pairs of outcomes or states. Although individuals may be assumed to have complete ordinal rankings of states of affairs, groups or societies need not have. (If the range of choices is sufficiently restricted, a society might have a ranking. For example, we might all prefer not to have a major nuclear war rather than to have one.) A strong commitment to Paretianism, either for epistemological or for conceptual reasons, is a commitment to indeterminacy of social welfare values.

Second, a point very close to a is Pareto superior to o, just as the point S is. We started by assuming that the values of the two parties are not interpersonally comparable. But the difference between a and S involves not only differences in your and my welfare; it also involves objective distributions of goods. I may receive large quantities of some goods while trading away only small quantities of others. If you started with very little or none of one of the goods and a lot of the other while I started with substantial quantities of both, you might trade most of your holdings for very little of the goods you are missing. You might do this independently of which of the two goods you are missing. If you have an interpersonally comparable value theory, you might think this a bad result. Hence, the Pareto principle is a meaningful and distinctive principle.

Third, all of our evaluation here is strictly from the status quo at o. You may have vast stores of our commodities and have only slight interest in getting more from trade while I have very little. Still, you may do very well in our interaction, so that we end up close to b. Your greater resources and consequent lesser needs may enable you to bargain harder. (This is not a certain claim – I may be a very hard, stoic bargainer and I may wear you down.)

Clearly, a Pareto improvement is not efficient in the simple common-sense meaning of the term. Pareto himself tried to distinguish what is now commonly called Pareto efficiency from efficiency as conceived in notions of efficient production. He spoke of optimality for his principle. Economists have tended to prefer efficiency over optimality because the latter has stronger normative connotations in economic usage while efficiency seems more nearly to be purely descriptive. Nevertheless, the Pareto principle is often invoked as though it were a normative principle, as though to say that what is Pareto superior is therefore in some sense better. For example, in his general impossibility theorem for social choice, Kenneth Arrow (1951) imposes a lesser form of the Pareto principle as a minimal moral constraint on the aggregation of collective from individual preferences.

It is sometimes thought that it would be rational for an individual to agree to any Pareto improvement. But this conclusion does not follow. Even though we might all be better off on the frontier than inside it, I might be especially better off at one point on the frontier while others would be especially better off at other points. Hence, there may be opportunity costs to me of settling on a frontier point that, for me, is inferior to other frontier points. It is therefore not trivially obvious what it would be rational for me to agree to – other than that it would be rational for me to accept a move to a point on the frontier that is at least as good as any other for me. This

problem may seem especially acute in many contexts of interest in moral and political choice, in which the issues before us cannot reasonably be seen or approximated as static. They are inherently dynamic. The frontier we face in this moment will provide only the starting point from which we make our next move. If we move to a point that gives you a great gain and me little or no gain, we then face a new future in which you start well ahead in the important causal sense that you have more resources for dealing with me.

Pareto's discussions of his principle exhibit a flaw that is evident in Figure 29.1. The discussions are generally about reallocating what we already have. For Pareto, of course, the reallocation is to be accomplished through voluntary exchange. There is no production of what we are to allocate in Figure 29.1 or in most discussions of the Pareto principle. In this respect, although his account is more careful and precise, Pareto's concern is less rich than that of Hobbes, who was overwhelmingly concerned with making life better. Sometimes, the Paretian reallocation of what we already have is called static efficiency or allocative efficiency, while the problem of jointly enhancing production through reallocation is called dynamic or productive efficiency. However, the vocabulary is not uniform or even generally precise or clear.

Pareto's objection to cardinal, interpersonally comparable utility in economics may have been that it is philosophically meaningless. He typically argued that no one could make sense of the comparison of a supposed unit of my welfare and a unit of yours, although he sometimes supposed this could be done in particular cases. Hence, his objection may primarily have been epistemological rather than conceptual. You and I typically know too little to make comparisons because we cannot know enough about others. His complaint against such comparison was part of his general push for greater realism in economic assumptions, many of which were stretched beyond common sense by the urge to make them complete and to mathematize them.

An oddity of a hard common-sense complaint against interpersonal comparison is that most people seem to labour under the common-sense assumption that they *do* know what it means in many contexts. I might immediately grant that the welfare consequences of your major injury or disease are greater than those of my stubbed toe or common cold. It takes a relatively abstruse argument to make this comparison seem meaningless and, once the aura of splendidly refined argument has faded, the comparison regains its psychological hold for all but the most firmly dedicated theorists.

If we reject interpersonal comparison of utilities, we cannot make common-sense efficiency claims for a group or an aggregate population. But, Pareto argued, we would not be completely unable to make claims about aggregate welfare. We could still say of one state of affairs that it was better than another if everyone were at least as well off and no one were worse off in it than they would be in the other state. As critics have long noted, this criterion suggests that the state of affairs W in which a great deal of new wealth is created that all goes to the tsar is better than the state X in which the wealth is not created and the tsar is not so much better off than all others. Some of the critics think W is more unfair than X and is therefore not better than X. (It is important not to suppose that the tsar's greater wealth means greater power to abuse or exploit others; if the wealth has such a causal effect, then W is not better than X even by the Pareto criterion.) Resolute Paretians seem to think this criticism incoherent or irratio-

nal. All that should matter to me is how well off I am, not how relatively well off others are, so long as their greater wealth does not give them harmful influence over my well-being. Psychologically, however, we know that people do care about relative status and that they have strong moral views about it. Neither the Paretian nor the relativist psychology is obviously moral.

Coase

In moving from the classical utilitarian view with interpersonally comparable, additive welfare to the view of Pareto we lose the capacity to judge between many outcomes, all of which are Pareto efficient. Although we might be able to say that we should improve our lot collectively by moving from a status quo to the Pareto frontier, we could not say that one point on that frontier would be more attractive than another by the Pareto principle. Hence, again, the Pareto principle might yield no determinate advice on what to do.

Hobbes had already foreseen the problem of choosing from states that might not be preferred in the same order by all of us. In choosing a government, we could establish a monarchy, oligarchy or democracy, and some of us might prefer one of these while others prefer another. Even if we all agree with Hobbes that monarchy is best for our interests, we may still disagree about who should be the monarch. Hobbes resolved this problem with a slight cheat. He supposed we know too little about the effects of any of these governments for us to be able to care substantially about which is established. More realistically, he also noted that our real problem is not construction of a government but maintenance or overthrow of the one we already have. Here, although I may rightly suppose my interests would be better served by a different government, I must recognize that the task of getting to it would be very destructive. Hobbes argued that, in general, the improvements one might expect from a change of government would be outweighed by the costs of making the change, at least for the present generation.

Pareto's claim differs from that of Hobbes in that it is analytic rather than explanatory. He was concerned with evaluating the various prospects in principle. If the Paretian evaluations are then to play a role in choice, they must be joined by causal considerations. For example, if the tsar in the example above thought his keeping all the new wealth his society created would lead to revolution, he might conclude that this point on the frontier would be causally excluded.

Even after certain states on the frontier are causally ruled out, however, we might find that we still face a set of many possibilities and that the Pareto principle is indeterminate. Ronald Coase, an economist at the University of Chicago Law School, has proposed a resolution for many such problems (Coase, [1960] 1988). That resolution is implicit in what the economist George Stigler dubbed the Coase theorem. This theorem may be loosely characterized as bringing production coherently into the Paretian vision, thus making our problem that of dynamic efficiency. We are concerned not merely to reallocate what we already have in some status quo to our mutual benefit.

We are also concerned to produce additional goods and services to be allocated to our mutual benefit.

The Coase theorem can best be articulated by example. Suppose a farmer and a rancher operate as neighbours. The rancher's cattle tend to trample the farmer's crops. One might suppose it obvious that the rancher is *prima facie* in the wrong. But, at least since Hume, we are reluctant to read moral conclusions directly off matters of fact. We could as well say the farmer causes harm to the rancher if the rancher's cattle are not free to roam. To resolve such a case legally requires prior legal rules that address the case, or that at least prescribe how to address it through relevant institutions, such as a common law court, if there is no adequately explicit rule in effect. We might similarly suppose that a moral resolution, which might not agree with the legal resolution, would turn on a prior moral theory that we apply to the case. We cannot simply intuit what is the right and what the wrong action. The law, of course, is contingent, and it is conceivable that it could have gone either way (it has gone both ways in various jurisdictions).

The Coase theorem says that, subject to transaction costs, the production from the joint property of the farmer and the rancher will not be affected by how the law assigns the right to use the farmer's property. Suppose the law assigns the right to the farmer, so that the farmer may legally erect a fence to keep the rancher's cattle out. Now, if the rancher can get more profit from running cattle on the land than the farmer loses from having the cattle run, the rancher and the farmer will bargain over sharing that extra profit and the cattle will run over the farmer's crops. Suppose the law assigns the right to the rancher. If the farmer can get more profit from not having the cattle on the land than the rancher can get from having the cattle run free, the farmer and the rancher will similarly bargain over the extra profit and the cattle will be excluded. Hence, the rule on how to use the property will not determine the property's use. Its possibilities for production will.

In this example, we have taken one point on the Pareto frontier and traded it for another point by introducing side payments. We can do this because the case is assumed to be entirely about income in the market. And the beauty of such income is that it is cardinal and it can be added across people. We might then be able to divide the income in a way that makes both parties better off than they could have been at either of the pristine states of affairs that might be supposed to be determined by our legal rule. In principle, we can bargain around any legal rule in such market contexts. Unfortunately, we may in fact sometimes find it impossible to bargain around a rule because bargaining itself can be costly and can eat up the gains in income that might be produced by a successful bargain. But, when transaction costs are not as destructive as this, significantly different legal rules may be relatively neutral in their impact.

In Coase's resolution of our problem of reaching the frontier, we are able to push the frontier out further to where various bargains have been made to enhance productivity, where there is therefore greater total production as valued in the market. Making these bargains depends on the cardinal, additive nature of market income. Here, out of the potentially large range of possible bargained outcomes, we should naturally choose that (or one of those) which maximizes total market income to be divided between us. Hence, we no longer face the entire frontier with indeterminacy. Our only indetermi-

nacy is that of how to allocate between us the excess income over what either of us would have got from bull-headedly following the extant legal rule. This is the universal indeterminacy of all constant sum bargaining games.

With this remarkable move, Coase has gone further than Hobbes. Hobbes reduced the frontier set to a collection of indifferently equally desirable states of affairs by stipulating epistemological barriers to our judgement of any differences between them. Coase actually makes a choice from the somewhat expanded frontier: that state which produces greatest market income. Coase's device may not work for various cases, such as those in which evaluations may in principle be easy enough but bargaining is hard, such as cases involving large groups rather than individual choosers, and those in which what is at stake does not have a market value. These two considerations may be brought destructively together, as in ethnic conflicts over territorial control.

Note, however, that Coase's problem is clearly and fundamentally different from Hobbes's. Hobbes was concerned with the general arrangement of order in society, with a welfarist or self-interest justification of the state. Coase's theorem comes to bear only against the background of such a state and its general legal structures and rules. It is inherently about marginal problems because it assumes a general framework of extant prices. Coase's resolution could not be applied to Hobbes's problem. Hobbes's and Coase's contributions to the analysis of efficiency are essentially complementary, not alternative accounts.

Contemporary Political Theory

Apart from law and economics, the most influential area in contemporary political philosophy is the debates over distributive justice sparked by John Rawls (1971). Rawls begins with a concern for the apparent conflict between equity and efficiency. The efficiency that bothers him is productive efficiency. He wants to put our resources and incentives into producing the largest possible set of relevant goods for distribution. That is to say, he is concerned with Hobbesian efficiency. Conflict arises if individual productivity depends heavily on incentives, as it will if the way to induce greater production is to let effective producers have larger than average shares of the society's wealth, income or consumption.

Rawls attempts to do something roughly similar to Hobbes and Coase: he narrows the range of possible efficient outcomes that we need consider. One might suppose this is merely a move to overcome the indeterminacy of Paretian efficiency. But Rawls's narrowing of the set of outcomes is fundamentally motivated by normative considerations of, most perspicuously, fairness and, especially in his later Kantian mode, such vague concerns as respect for persons and autonomy. Hobbes fell back on epistemological ignorance to reduce the set. Coase uses market values to trade beyond the bare allocations of the law. Rawls uses his criterion of equity, that the worst off do as well as possible, to eliminate many possible political arrangements. His focus is that of Hobbes on the general structure of political-legal order and not that of Coase on the resolution of marginal interactions against the background of an established political-legal order.

Contemporary utilitarian political theory, which seems to be every other theory's chief antagonist, cannot be grounded in a trivially Benthamite value theory. Quite apart from metaphysical objections to making interpersonal comparisons, such as Pareto may have had, there are obvious epistemological difficulties that may be insurmountable. Utilitarians may still accept at least some interpersonal comparisons and some aggregations across persons, as the anti-utilitarian Rawls implicitly does in his account of primary goods. But for many matters in political philosophy, they must settle for either Hobbesian or Coasian efficiency rather than aggregate welfare comparisons. If utilitarians are not happy with Hobbes or Coase, they must attempt to define an alternative notion of dynamic efficiency that can lie at the core of their political theory. And if they do not improve on these, they face the perplexing problem that the Hobbesian foundationalist vision does not coherently connect with the Coasian marginalist vision.

References

Arrow, K. J.: *Social Choice and Individual Values* (New York: Wiley, 1951; 2nd edn 1963).

Coase, R. H.: 'The problem of social cost' (1960), in *The Firm, the Market and the Law* (Chicago, Ill.: University of Chicago Press, 1988), pp. 95–156.

Hardin, R.: 'Hobbesian political order', *Political Theory*, 19 (May 1991), 156–80.

Pareto, V.: *Manual of Political Economy* (1927; New York: Kelley, 1971).

Rawls, J.: *A Theory of Justice* (Cambridge, Mass.: Harvard University Press, 1971).

Chapter 30

Environmentalism

JOHN PASSMORE

When the Supplement to the *Oxford English Dictionary* went to press in 1971, it still recognized only one sense of 'environmentalism' – as the name of a particular sociological theory holding that the differences between human cultures were to be wholly explained in terms of such factors as soil, climate and food supplies. As for the now cognate term 'ecological', that too had a purely scientific significance. The German zoologist Ernst Haeckel had coined the word 'ecology' in its German form as early as 1870, to signify 'the investigation of the total relations of the animal both to its organic and its inorganic environment'. It was soon extended beyond animals to the study, in these terms, both of plant life and of human societies.

Since the early 1970s, however, the 'environmental' or the 'ecological' movement has connoted a socio-political force rather than a specific scientific doctrine or field of study, a change particularly marked in such coinages as 'eco-politics', 'eco-left', 'eco-feminism'. It has sometimes found expression in the formation of 'Green' political parties; sometimes in pressure groups which seek to modify the programmes of already established parties or which, scorning political parties, confine themselves to direct action of a 'grassroots' kind.

There are links between the older and the newer meanings. Sociological environmentalists emphasized that the natural environment was not just a passive 'surrounding', but had a profound effect on social practices. Biological ecologists drew attention to the complex interactions within biological communities and between them and their habitats. Environmentalists often express hostility to science and technology, blaming them for environmental degradation. The fact remains that unlike most traditional political movements they constantly appeal to evidence from the natural sciences, whether it be to food chains or to greenhouse effects or to ozone layers. Nevertheless, they also, here like other political parties, make use of classical social and political concepts and urge the need for social and political changes, often of a quite radical kind. Indeed, the lengthy manifesto of the German Greens (Die Grünen, 1983) devotes most of its space – 48 pages out of 54 – to the proclamation of such 'dissident left' policies as decentralization, non-violence, participatory democracy, egalitarianism, anti-nuclearism and rotary office holding as being both good in themselves and essential preconditions of fundamental ecological reform – this in opposition to the view that such reform can take place, with the help of technological fixes and such devices as

legal penalties and taxes, within a capitalist politico-social framework. The word 'environmentalism' is now sometimes confined to this last type of view; it is then contrasted, unfavourably, with the 'Green' (subdivided into various shades) or with the 'ecological' movement (Porritt, 1984).

The Environment

What constitutes 'the environment'? In its now relevant, biological, sense it includes anything which affects the capacity of organisms to survive, to reproduce and to flourish. The environment of any particular organism, or species of organism, will include other organisms. The human being's environment may include mosquitoes; human beings may be part of a mosquito's environment. To the human being mosquitoes are a threat; to mosquitoes human beings are both a threat and a resource.

In the case of human beings we can roughly distinguish three kinds of environment. Every human being is born into a community, or more accurately communities, of human beings bound together by social practices. These together constitute an individual's social environment, even if over time the individual so internalizes these social practices that they largely constitute that person's actions. There is no novelty in the view that a human being's capacity to survive, to reproduce, to flourish can be deeply affected by the nature of these practices. What has only recently been fully recognized is they can affect the capacity of the human species as a whole to survive, to say nothing of the survival of other species. The environmentalist movement springs out of a recognition of the manifest ways in which social practices can give rise to environmental degradation.

Secondly, every human being has at hand a variety of physical objects which other human beings have deliberately designed in order to satisfy human needs and desires. They constitute the built environment. This includes a great deal more than buildings in the normal sense; it includes, for example, machines, roads, manufactured chemical products. Many built objects were constructed as a response to environmental threats. Nevertheless, environmentalists point to the fact that even then they can themselves constitute an environmental threat, as in the case of insecticides. For some environmentalists almost every built object constitutes a threat; others will agitate for the preservation of certain kinds of built objects, as historically or artistically of peculiar interest.

Finally, there is the natural environment, to which is the word 'environment' is now mostly commonly taken to refer. Its distinction from the built environment is not absolute. Although there are still, in some parts of the world, genuine wildernesses containing nothing that has been placed there by human hands, in industrially advanced countries what counts as the natural environment will often have been deliberately modified, socialized. An inner-city dweller will no doubt encounter forms of insect and bird life – flies, cockroaches, starlings, pigeons – which, although they have changed their food habits as a result of contact with human beings, have not been deliberately modified by them. But the flowers on the windowsill and the trees in a park have not only been deliberately placed where they now stand but are usually varieties bred to meet the rigours of city life.

The countryside is in a similar position, except that its trees may sometimes have been left standing, although normally now in a different plant and animal community. Its fields have been laid out, its plants and animals genetically transformed. Nevertheless, parks and countryside are normally thought of as forming part of the natural environment, with their preservation fought for as such, just because plants, animals and trees, if man-modified, are not man-made. Even when they have been severely polluted as a result of human intervention, rivers, the seas and the climate fall into this same category. What, in general terms, environmentalists want to do is to preserve remaining wilderness areas, to restore degenerated natural environments to something like their pristine condition, to prevent further degeneration. They all realize that in order to achieve these aims they will have to press for changes in social practices and in the built environment. But they differ notably in their motives, in respect to the degree of change with which they would be satisfied and in the means which they would be prepared to see employed in order to reach that point. Together they constitute a family of movements rather than a single movement, one of those families within which there is considerable internecine hostility.

Varieties of Environmentalism

Their opponents, whether industrialists, miners or foresters, tend to divide environmentalists into two groups: ‘hard’ and ‘mainstream’. By ‘hard’ environmentalists they mean those with whom they find it impossible to negotiate. By distinguishing them from ‘mainstream’ environmentalists they mean to suggest that the ‘hard’ constitute a fanatical minority. But these appellations do not draw attention to what intellectually distinguishes the hard group, namely the fact that ‘hard’ environmentalists are not only indifferent to economic growth (which is all their opponents have to offer) but are totally hostile to it. They entirely reject the concept of sustainable development, as supported in the United Nations report *Our Common Future* (Brundtland, 1987), if this is taken to imply any measure at all of economic growth; as they see it, only by moving in the reverse direction can environmental degradation be prevented.

Within the environmentalist movement itself, a distinction is often drawn, following Arne Naess (1973, pp. 95–100), between ‘shallow’ and ‘deep’ environmentalism. These are distinctly value-laden descriptions. No one would care to enrol under the banners of the ‘shallow’, whereas ‘deep’ has for many people an irresistible appeal. It will be less question begging to contrast, in a manner now familiar, ‘humanistic’ and ‘biocentric’ environmentalism. Anthropocentric – or in the writings of eco-feminists ‘androcentric’ – is perhaps in more common use than ‘humanistic’, but these words suggest a metaphysical view, that the whole of nature exists for the sake of human beings, which no serious humanistic environmentalist could possibly hold.

Humanistic environmentalism sets out to change social practices which have an adverse effect on the environment because, in their judgement, these will eventually give rise to adverse effects on human interests. Biocentric environmentalists take as their final end the preservation of the biosphere in all its complexity. If they foresee that human beings will destroy themselves they might accept that with equanimity, as no

novelty over time, but not insofar as their manner of self-destruction carries with it damage to the biosphere as a whole.

Humanistic Environmentalism

In its narrowest form, humanistic environmentalism confines itself to the local effects of pollution or environmental degradation. It is sometimes then described as 'not in my backyard' environmentalism; 'local' environmentalism is a more manageable name. It objects, say, to the pollution of a river because the pollution lowers local property values or destroys traditional amenities. Universalistic humanists go beyond this in a number of ways. First, they campaign against environmental degradation at places where they do not themselves live or at times at which they will no longer be alive; secondly, they stress human interests other than property values and local amenities.

Since, however, local pollution certainly falls within their ambit, universalistic environmentalists may be called upon to help out in local disputes, where indeed information is generally easier to discover, pressure easier to mount. The motto 'think globally, act locally' has now, in fact, won widespread support amongst environmentalists of every kind. Such alliances, however, tend to be temporary, the community falling back into its customary environmental complacency unless the local campaign can be used to persuade them that remoter places, distant generations, are also of local concern.

Remoter Places

Environmentalism began as local environmentalism, if on a relatively large scale. The triumphs to which it pointed were the dispersal of the more deadly kind of London fog, the return of fish to the Thames. But it was obvious from the beginning that there were rivers like the Rhine, seas like the Baltic, which called upon co-operative action that could not stop at national boundaries. With the discovery that acid rain could damage the environment of countries as relatively remote from the polluting sources as Norway is from England, it became even more apparent that environmental degradation is no respecter of national boundaries. If atmospheric warming and holes in the ozone layer are indeed the result of industrial pollution as distinct from natural cycles, the human importance of environmental degradation in a particular country on localities everywhere is beyond dispute.

Such facts produce both opportunities and problems for universalistic humanistic environmentalists. The advantage is that Donne's 'no man is an island' can be transposed into 'nowhere is an island', in order to persuade local environmentalists to extend their interests further. Campaigns against, say, the cutting down of rainforests in the Amazon can win wider support by pointing to its effects on the atmosphere than would have been available had the resulting degradation of both the natural and the social environment been purely local. The problems are mainly political. When the source of pollution is in one country, the degradation in another, there will be more than usual pressure on their governments by the industries involved to ignore such effects. When the destruction of rainforests in the Amazon basin is condemned by environmentalists,

the local entrepreneurs may argue that this condemnation is a variety of neocolonialism, preventing the economic development of their country. This may also happen when environmentalists object to polluting chemical factories being transferred to developing countries.

To the accusation of neocolonialism the environmentalist may reply that in fact it is the overseas entrepreneurs – which is what they generally are – who are the neocolonialists, degrading the developing country's environment for the sake of short-term profits. But whereas the biocentric environmentalists may argue further that development is in itself a bad thing, humanistic environmentalists cannot close their eyes to the fact that without economic growth the developing countries, with their present (to say nothing of future) populations, may be condemned to unemployment, low life expectancy and violent political instability. Whether in their own country or in other countries, however remote, humanistic environmentalists cannot ignore, as a biocentric environmentalist may, such actual or possible outcomes. That is why industrialists, foresters and miners find them relatively 'soft'; they are not generally prepared to give a zero value to economic development.

It by no means follows, however, that humanistic environmentalists will immediately acquiesce once they are told that there are economic gains for the developing country in transferring to it chemical factories or in cutting down their forests. If they are environmentalists of any sort whatsoever, they will appeal to considerations other than immediate economic losses and gains – to the degradation these activities will bring into being, to the long-term losses they entail, to their effects on ethnic minorities and so on. They may well conclude that certain forms of economic activity are unsupportable.

At the political level, they may then urge on their own governments the provision of economic and expert aid to developing countries to make possible alternative forms of employment, legislation against the import of rainforest timber and so on. Environmentalists and supporters of foreign aid may be sufficiently powerful to make such pressures on established parties not entirely nugatory. In the developing countries, however, environmentalism is unlikely to be powerful and the political situation may well be very difficult for outsiders to grasp. Environmentalists may find political parties who are prepared to support their environmentalist activities, and may think of themselves as using these parties to advance their cause, when in fact they are being used by such parties, which have as their real aim the assumption of political power. This, of course, is simply an example of the problems besetting all minority groups who need allies but then come to be identified with their allies. Anti-nuclear groups are another case in point.

Future Generations

A concern for future generations is no novelty. It can take a variety of forms, as comes out in testamentary dispositions. These may include legacies to great-grandchildren but also to organizations which the testator expects to carry on certain kinds of activity during future generations. Such concern is, of course, local but the principles that underlie it can readily be generalized. In the first case, the testator is handing on

resources which will, the testator thinks, help the legatees to live the kind of life the testator would like them to live. The resources will for the most part consist of man-made resources – property, money – rather than natural resources, but we can easily generalize this attitude into handing over natural resources to later generations. In the second case, the legacies may go in a more impersonal fashion to institutions but again on the assumption that these institutions promote ways of life which the testator regards as being important. There can, of course, be deep differences of opinion about what these ways of life are. Biocentric environmentalists are sometimes primitivists but humanistic environmentalists are generally interested in maintaining and developing some form of liberal democratic society in its rich diversity, nowhere more manifest than in some of its cities, as well as a similarly diverse biosphere. In consequence such environmentalists are particularly concerned about the conservation of natural resources.

That was the theme of the Club of Rome report *The Limits to Growth* (Meadows et al., 1972). The report was attacked by economists and technologists on its first appearance as underestimating the capacity of technology, both as a means of discovering new mineral resources and of providing substitutes for the resources we at present employ. They were right, insofar as the gloomier prognostications of the report have not yet eventuated. Nevertheless, resources are limited, by the nature of the case, and although increases in prices as they became scarcer might ensure that they would not entirely run out, high prices could have a considerable effect on future societies. The environmentalist would also point out that markets can be slow to react to scarcities, as has happened in relation to several species of fish. As for substitutes, these have often turned out to present unexpected problems (as in the disposal of nuclear wastes) or to be considerably more expensive than anticipated or, like nuclear fusion or the production of long-life batteries, to present technological difficulties. It is also true, of course, that they use natural resources, although different ones.

Environmentalists still have to face the general objection that we should concentrate our attention on here-and-now problems, leaving future generations to face their problems as we have had to face our problems. The pace of technological innovation may be invoked to argue that we cannot really tell what they will regard as problems or what tools they will have to deal with them. It is a firm economic principle that we ought to discount the future heavily and never more so than in rapidly changing societies.

Replying to such views, universalistic humanists argue that the fact that human beings live in the future rather than now does not affect our obligations towards them, any more than the fact that they live in a different part of the globe: we are still obliged to take their interests into account. Admittedly, the degree of uncertainty which commonly attaches to the outcomes of our actions is in this case accentuated; we are very likely, trying to do the right thing, actually to do the wrong thing. The information we have at our disposal is more than ordinarily limited.

We have, however, at least this much information: we know that the human beings who succeed us on the earth's surface will need water, food, an atmosphere they can breathe, protection from heat and cold and space to live in. On any but the most localized moral view, the humanistic environmentalist argues, we should not put these perennial human needs at risk by seriously modifying the constitution of the

atmosphere, the temperature of the globe, the amount of land that is above sea level, by cutting down forests, exhausting mineral deposits or allowing the topsoil to degenerate or rivers to be polluted. In many of these cases, of course, environmental reform offers advantages to the present inhabitants of the earth as well as to later generations; in other cases the time scale involved is relatively short so that at the very least our own great-grandchildren, for whom we might quite naturally make testamentary provision, would be affected. So we are not passing beyond the normal bounds of natural affection.

Here again, then, we have a situation in which a generalized humanistic environmentalism can appeal to localized effects. Its theoretical concern, however, is with future generations as such, whether or not they stand in any closer association with us than that of being fellow human beings. Thus it relates to our everyday concern for the welfare of our immediate descendants much as classical utilitarianism, with its demand that we act so as to produce the greatest happiness for the greatest number, does to our everyday concern for the welfare of those to whom we are bound by special ties of affection or responsibility. The consequentialism espoused by a humanistic environmentalism is not, however, committed to the classical emphasis on pain and pleasure. Its commitment is simply to the view that some ways of living are better than others and that we ought not to act now in such a way that future generations will inevitably live worse lives than they otherwise could. Whether ‘better’ can simply be equated with ‘less painful’ or ‘happier’ is a question we need not consider.

The political problem, of course, arises when in order to ensure that future generations will have some chance of living a good life or satisfying their interests present generations will have to make important sacrifices, especially as these sacrifices are likely to be unequally distributed. There can be considerable debate about what constitutes an important sacrifice. North Americans could considerably reduce their extremely high rate of energy consumption while still having a high rate of consumption by international standards. They have, however, built many of their ways of life around high energy consumption. They would certainly regard themselves as making important sacrifices were they called upon to walk or to use public transport in some instances when they now drive or were obliged to wear heavy clothing inside in winter. Many environmentalists would argue that with lower energy consumption people would actually live better lives but, even in these relatively trivial cases, politicians would be reluctant to impose regulations to secure lower consumption if this is only for the sake of future generations. Once again, then, it may be politically necessary to stress more immediate, local, consequences.

At their least demanding, environmentalists may urge consumers to abandon such practices as throwing away containers, industrialists to produce recyclable containers, and local governments to subsidize their collection – or the collection of used paper – when recycling is otherwise not economically viable. This is partly to conserve natural resources, partly to reduce the size of rubbish heaps. At this level they have been relatively successful. Recycling makes people feel virtuous, in societies where saving is officially regarded as being a virtue; it is relatively painless and it does not involve any radical change in social and political attitudes. In short, it is environmentalism without tears. But it requires the use of industrial processes, takes energy, produces by-products and can help to sustain the illusion that resources are inexhaustible.

In some other cases, the sacrifices called for are uncontroversially serious, as when reductions are urged in the logging of forests and the result is unemployment – not only for loggers but in nearby towns. The environmentalist may point out that in a society that breaks away from totalitarianism many dedicated members of the secret police will similarly be thrown out of work, that this is indeed characteristic of a great many desirable social changes. But in these cases the compensating benefits for present, as well as future, generations are clear. If a similar point can be made about the logging of trees, the political problems can equally be eased; once again, to find a way of appealing to local environmentalism increases the chances of securing environmental ends which are not purely localized.

Similar problems arise if the environmentalist speaks in terms of human rights, rather than of interests or kinds of life, and argues that these rights are possessed as much by members of future as by members of present generations. So far as the classical rights are concerned, such as the right to free speech, one can certainly argue in a quite general way that one ought not to act in such a manner as to increase the risk that future generations will be less likely, in consequence, to possess such rights. This is a line of reasoning which is particularly appealing to liberal democrats. The problem is to link it with environmentalism, except by having recourse to scenarios that have a science fiction air about them. One is called upon to envisage ways in which environmental degradation would inevitably lead to the setting up of totalitarian (or at least military–authoritarian) governments which would not recognize human rights. Such scenarios are extremely plausible but they are unlikely to look that way to ordinary electors, just because they so closely resemble fictional speculations.

Such an appeal to the classical rights, it should also be observed, does not lie open to all environmentalists. Biocentric environmentalists such as Callicott (1980, pp. 311–38) sometimes describe themselves as 'holists' and regard with equanimity a society in which individual rights are sacrificed to 'the good of the whole'. Indeed, they may even urge that we should now become such a society. It is certainly very difficult to see how environmental degradation can be diminished without a considerable amount of regulation, which will often interfere with established property rights and with the non-classical 'right to work'. But these can in principle be compensated for; in the eyes of a liberal democrat there can be no compensation for the loss of such rights as freedom of speech.

Particular problems centre around control over population, in the interests of future generations. Environmentalists of every kind argue that the world either is, or will in the relatively near future become, overpopulated. For humanists this means that as a result in part of environmental degradation human life will come to be, as in places it has already become, 'nasty, brutish and short' once the population goes beyond a not precisely specifiable level. As usual the facts are disputed; there are some who argue that, as a result of technical advances, the world (perhaps by colonizing nearby planets) could adequately support a much greater population than it now does. But, for all that we have recently made such vast gains in agricultural productivity, these claims are generally dismissed by environmentalists. The gains have always been accompanied, they point out, by serious losses in the form, for example, of fertilizer flow-offs into streams.

The objection can be raised, however, that it is morally wrong to try to stem population growth. Classical utilitarians sometimes get into difficulties on this point. For if

what we ought to do is to maximize total happiness, then on the face of it, as Parfit (1986, pp. 145–64) has pointed out, a large population can be what we ought to try to secure, provided only that each member of that population is marginally happy, rather than a considerably smaller population in which individuals are more than marginally happy. Of course, if it can be shown that the inhabitants of the more largely populated world are going to live lives of unremitting misery, the calculation comes out very differently but it is extremely difficult to show convincingly that this is bound to be the case.

Even supposing it can be shown, however, that a more heavily populated future world will contain less total happiness than a society in which growth has been restrained or that it will be a society in which there is no political freedom or in which it is impossible to live certain kinds of good life, moral objections may still be raised to the steps which would have to be taken to restrain population growth.

Some of these objections relate to the fact that population control depends upon the use of contraceptives and abortion. Humanistic environmentalists may be disturbed by this fact, but are not necessarily so provided the use of such devices is voluntary. What is morally disturbing is that such voluntary reductions in family size are not, on a worldwide scale, likely to produce a sharp decline in population growth over any but a long period of time and yet there are good reasons for believing that excess population is a major cause of environmental degradation. This is far from being the only case in which the question, 'How are we to get from here to there?', is a very uncomfortable one for environmentalists. But the population question faces all environmentalists, not only those for whom 'there' is some form of Utopia. So it is not altogether surprising that population control has come largely to be ignored in recent environmental discussions, vital though it would seem to be.

Environmental Concerns

The third difference between local and universalistic humanistic environmentalists is the wide range of the interests in the environment which universalists can display. They are not at all committed to the traditional view that human beings ought to think of the natural environment only as a threat or a resource. This is particularly so if 'resource' is understood to mean something which is used as a way of maintaining, or increasing, economic prosperity, whether in the conventional manner of mining or forestry or in the modern manner of a tourist attraction. They will reject, as firmly as does the biocentric environmentalist, the doctrine that human beings stand apart from Nature; indeed, the contrary view has been commonplace since Darwin. But in their defences of environmentalism they still unashamedly appeal only to the losses human beings will experience as a result of environmental degradation, directly or indirectly.

The most politically effective of these defences appeals to broad environmental effects on human health. Here humanists can often join hands with local environmentalists in the places which are affected by the pollution and hence can strengthen their political influence. The opposition, in contrast, will generally come from the places where the pollution is generated, although it will extend to places and persons economically

or politically linked with the polluter. The central figures will normally be the farmers, whose insecticides or fertilizers pollute groundwater and streams, and the industrialists, whose factories pollute the atmosphere or water. But they may be joined by workers who fear loss of jobs (particularly but not only when they do not themselves suffer from the pollution), industries which supply the polluting substances and scientists and technologists who have created them. They may win the support of governments, shareholders and others who fear the economic effects of prohibiting polluting practices, charging those who pollute or demanding costly changes to factories. This is especially so in a highly competitive world, where other countries may have no hesitation in accommodating the offending factory or permitting ecologically dangerous farming practices. The situation is even more difficult when, as often happens, the precise damage done by the pollutant is hard to establish and scientists differ about its importance.

Pollution is no respecter of species. Indeed its effects on non-human species may be easier to detect than its effects on human beings. In some such circumstances, there may be clear economic costs, as to fishing industries. And in political debates the humanistic environmentalist may emphasize them. Equally, when the point at issue is the disappearance of species, not only from a particular place but from the face of the earth, humanistic environmentalists will often emphasize the possible loss, with the species, of biological structures which might turn out to be useful as drugs or insecticides.

That is likely to be more effective politically than the considerations that are in fact most influential in the mind of the environmentalist. There is nothing hypocritical in this. Environmentalists may be genuinely concerned about the fate of fishermen, or bathers, and may genuinely believe, what is by no means a mere guess, that some threatened species – even if they cannot specify in advance exactly what species – contain unique substances which will turn out over time to be very useful to human beings. But it does mean that the humanistic environmentalists, in a manner which biocentric environmentalists of the purer sort will find intolerable, accommodate their case to what they take to be the political realities.

Two other considerations to which they might appeal are likely to be less effective. (It must be remembered that politically powerful appeals to economic development will be the weapon of their opponents.) The first is that a disappearing species or a disappearing habitat or unique geological formation is a lost opportunity for scientific investigation. The second is more difficult to formulate – it is sometimes described as an appeal to 'aesthetic' considerations. This wrongly suggests, however, that the appeal has to be to the beautiful or the sublime.

In some cases such an appeal to the beautiful or the sublime can be politically effective and it may take shape practically in a temporary alliance with the tourist industry – an alliance surviving only until that industry reveals its plans for development. But the humanistic environmentalist can join hands with the biocentric environmentalist in wanting to preserve species to which adjectives like 'beautiful' and 'sublime' are not ordinarily applied, rejoicing in the sheer diversity of the natural environment, in being able to feel a part of it rather than a spectator, appreciating the interplays within the web of life. These are all of them purely human reactions, no other animal is capable of them; there is no departure from humanism in taking them seriously. But it is at this

point, certainly, that the humanist is most likely to be accused of sentimentality, of trying to impose middle-class values or of a lack of realism. So it is not surprising that as a political movement, humanistic environmentalism tends to appeal to more obviously utilitarian considerations or, alternatively, to doctrines of rights.

Extended Humanism

Extended humanism falls between humanistic and biocentric environmentalism. It does not take the interests of human beings, however broadly regarded, to be central; on the other side, it does not take the interests of the eco-system as a whole to be central. One might even refuse to call it 'environmentalism' on the ground that its interest is ordinarily confined to a concern for certain types of animal but it sometimes goes beyond that point, perhaps by recognizing that concern for animals carries with it a concern for their habitat, perhaps by trying to extend to all members of ecosystems concepts which have first been extended from human beings to other animals, whether these be interests, or equality, or rights or liberation.

Extended humanism commonly begins, as it did for Bentham ([1789] 1970, ch. IV, sect. 7) and for Leopold ([1949] 1966, p.138) from a belief that human beings have over time made moral advances. (That is one reason why it is unpopular with those biocentric environmentalists for whom the view that human beings have in any way progressed over the last millennia is anathema.) So human beings have abolished slavery, attacked sexism and racism and even, in relation to animals, set up Humane Societies and Societies for the Prevention of Cruelty to Animals. But they are still 'speciesist', to use the term introduced by Richard Ryder (1972, p. 81); they still treat human beings as being superior to other species, in a way which condones treating animals in ways in which it would not be permissible to treat even the most hopelessly vegetabilized human being. Extended humanism rejects such practices as morally impermissible.

Bentham had said that the crucial question when we are considering how we should treat other species is whether they can suffer, and this is the principal theme in Singer's *Animal Liberation* (1975), a work which has had considerable impact in the political sphere. If it leads him to speak in terms of the 'equality' of all animals, this, he thinks, is in respect to their capacity for suffering; that is the only sense in which, he indeed argues, we can plausibly think of human beings as being equal. One feature of his argument, which also runs through much extended humanism, is that he will not allow us to describe something as being a species characteristic unless it is characteristic of all members of the species (he uses 'species' as if it simply meant 'class'). So we are not allowed to say that human beings are peculiarly rational, and deserve preference as a species for this reason, seeing that there are decerebrate or vegetabalized human beings.

That is not our usual practice. We say that dogs are quadrupeds even although some are born with three legs or lose a leg in an accident; we do not regard the existence of Siamese twins as falsifying generalizations about human anatomy. The individuals to whom animal liberationists refer in order to dispute the view that human beings are peculiarly rational could in principle be cured of their dementia or prevented from

developing it by genetic intervention, whereas we cannot by medical intervention turn mice into metaphysicians. The comas arising out of accidents no more demonstrate that human beings are not, as a species, rational than does the occasional amputation of their legs demonstrate that they are not bipeds. Furthermore, it can be an important fact about a species that some members of it have exceptional characteristics, that it contains peculiarly striking varieties. In the case of human beings, these varieties include geniuses. It is not absurd to place a particular value on a species because it sometimes produces individuals of very great value, even if it also produces villains of the deepest dye. But although the humanist environmentalist is not prepared to blur the distinction between the human species and other species, even in respect to the kind of suffering they endure – much human suffering being related to fears about the future, guilt about the past or the sight of suffering in others – that need not prevent them from joining with extended environmentalists in protests against, say, battery farming or unnecessary (or unnecessarily cruel) scientific experimentation.

Singer's reference to suffering is essential to his argument. He does not demand that we give up planting vegetables in rows in order to eat them, as the Greek philosopher Porphyry (*c.* 280) substantially did. But other extended humanists, just because the argument is thus confined to animals which are capable of suffering, prefer to argue in terms of rights.

They cannot, of course, have recourse to the classical rights, as formulated in declarations of the rights of man. For these all relate to the relationships of human beings with one another in a peculiarly human type of society; they are modes of protecting one human being against another. They arise within a judicial system; they generate claims within such systems.

In the animal case, the situation is quite different. The rights are not claimed by one member of an animal species as against other members of that species, as they are in the human case. Looking at a country other than our own, we might protest against the way some members of that society are treated by other members of that society and we might appeal to rights on behalf of what we regard as the oppressed members of that society, even when they are not recognized (whether in theory or, as now more commonly happens, in practice) in that society. It would be quite ridiculous to demand such rights on behalf of worker ants in an ant heap. Even such non-classical rights as the right to work have no application in this context.

The 'right to life' as ordinarily employed in arguments against abortion and euthanasia also has no application here, insofar as 'the sanctity of life' is taken to mean the sanctity of *human* life. But if we take it, rather, as a general precept against arbitrary killing then it can be used not only in relation to animals but to plants. The disputes are then about what counts as 'arbitrary'. In this case, of course, the tree, for example, cannot of itself claim the right not to be chopped down. But it is sometimes true even in human cases that someone has to speak on behalf of the person whose rights are infringed. So such legal philosophers as Christopher Stone (1974) have sought to describe ways in which damages can be sought on behalf of the fish in a polluted river as distinct from economically affected fishermen, the damages in successful cases being awarded to some form of nature protection organization.

Political action in this sphere has generally taken the form of legislation to prohibit in particular circumstances the cutting down of trees or the pollution of rivers. So the

plaintiff appeals to legislation which in fact takes away rights from human beings rather than granting them to non-human entities. Such legislation is often resisted in precisely these terms as an infringement, not an extension, of rights, and it is often impossible for anybody but a government organization to act as a plaintiff, as it is commonly very reluctant to do. The existence of laws relating, let us say, to the emission of gases into the atmosphere or of pollutants into rivers – to the degree that environmental law is now an established specialism (Anderson et al., 1990) – is an indication of how successful environmentalist political pressures have been. The common failure to prosecute and the miniscule fines set down indicate, however, that these successes are often more apparent than real, particularly under conditions of economic recession.

Whatever form it takes, extended humanism is usually egalitarian, except insofar as its utilitarian version makes a distinction between the sentient and the non-sentient. Nevertheless, since the argument commonly begins by stressing continuities between human beings and other animals, it usually emphasizes what human beings think of as being 'higher' animals. So the fate of whales and dolphins is more likely to concern extended humanists than the fate of other sea dwellers; experiments on chimpanzees, monkeys, cats, perhaps rats, than on fruit-flies. In Regan's large-scale work entitled *The Case for Animal Rights* (1981), his case is in fact made out only for the rights of mammalian animals. Even those who argue that cells should be respected may still suggest that some animals have 'richer experiences' than others (Birch and Cobb, 1981), as, for example, dolphins more than sharks; the death of individual members of these species arouses grief among their fellows, and so our concern for them should be greater. It is easier to win public sympathy for picturesque animals than for the drabber kind.

Biocentric Environmentalism

When the critics of environmentalism refer to the environmentalist 'lunatic fringe' this may be a way of concealing the now politically unpopular fact that the critics are actually opposed to every form of environmentalism. Sometimes, too, those whose economic interests are as animal experimenters or battery farmers may categorize every form of extended humanism in these terms. But biocentric environmentalism is most often attacked as lunatic.

We need to draw a distinction, at this point, between biocentric environmentalism considered as a biological thesis with practical environmentalist consequences and the metaphysico-politico-religious views that have been built up around that thesis. As a biological theory it turns attention away from the individual animals, including human beings, who can suffer as a result of social practices (whether pollution or experimentation) and towards the total ecosystem of which they form part, within which individual suffering and individual deaths are of little consequence. (Biocentric environmentalists not uncommonly defend hunting.) What counts is the preservation of the entire system which makes possible the continued existence of living things; it is on the continued health of that system that we should, according to biocentric environmentalism, be concentrating our attention. Its key concept is 'the web of life', now emphasized by

biologists who not so long ago were pointing to differences between species rather than to their interrelatedness.

The web of life differs from the older concept of the balance of nature, commonly invoked by earlier environmentalists, insofar as that was taken to be static, often providentially sustained. The web of life, in contrast, recognizes struggles and conflicts; it grants that species can be extinguished, even without human intervention. The most complex version of web of life theory is the Gaia hypothesis. As first presented by Lovelock (1979), this was widely interpreted as being a quasi-religious theory, as its name might suggest. But the later version (Lovelock, 1989) makes plain its character as an elaboration of Darwinism in which species are thought of as modifying the biosphere, through the familiar processes of mutation and natural selection, in a way that assists them to survive.

The practical importance of web-of-life biologies is that they draw attention to the crucial importance for the maintenance of the biosphere of relatively remote, individually miniscule, quite unspectacular, biological processes. Such catch-cries as 'everything is connected to everything else' exaggerate the situation; to pluck a leaf from a eucalypt in Australia will not influence the rate of growth of seaweed in the Sargasso Sea. But it gives expression to the astonishment we feel as totally unexpected connections come to light. They only come to light, however, as the discovery of particular connections; if everything we do influences the constitution of the ozone layer, it would be impossible to pick out the contribution of refrigerants.

Politically, biocentric environmentalism presents special problems. The effects of pollution are often direct and visible, even to those who have no knowledge whatsoever of biology. So are the effects of deforestation on landscapes. Even when they are in remote places, devastated landscapes, landslides and muddy rivers can be shown on television. This is a great assistance to the proponents of environmentalist programmes. In relatively straightforward cases like the connection 'refrigerants – depleted ozone layer – skin cancer', the fear of cancer, too, may win an audience which would not be at all capable of understanding the mechanisms here involved. But in more complicated cases, where the effects of environmental degradation at a particular place are remote and involve complex and often hypothetical connections, it is hard to make a political issue of them.

Even the simpler cases such as pollution reduction, as was earlier said, may involve international co-operation. Similar problems can arise when what is at issue is the preservation of species which do not, at least for their entire life cycle, belong to any particular country. Whales, fish and migrating birds are examples. In such cases the refusal of a single country to sign (or to keep to the terms of) an international agreement, can lead to the loss of species. Almost all the interactions in which the biocentric environmentalist is interested transcend national borders; they require for their survival the securing of genuine national adherence to international agreements.

There is nothing 'lunatic' about biocentric environmentalism as such. It rests on scientific discoveries, on a network of scientific theories which can only be substantiated or refuted by further investigation. It can be accepted, at this level, by humanists provided only that they abandon certain theses which have often been associated with humanism.

In particular, human beings must not think of themselves as standing in a god-like fashion outside the web of life, able to change, manipulate and govern it as they choose. If segments of what they think of as their natural environment serve as resources for them, this is as true of every other species. In an important sense the traditional concept of *the* environment is dissolved; there are only particular environments (habitats) in a biosphere. Cartesianism therefore has to go, but that does not carry humanism with it. Humanism is quite compatible with the 'process philosophies' to which many environmentalists now turn, with its starting point Heraclitean, its emphasis on change, activity, interaction and continuous existence through constant interchanges, rather than on fixed substances only externally related to one another.

None of this, however, demonstrates that the human species is 'just one species among others'. The mere existence of environmentalism is enough to demonstrate the contrary. On the one side, it exists only because some members of the human species are unique among living things in their capacity to create environmental devastation, by such means as using medical and agricultural technology to overcome natural population checks. Most other species can safely proceed in the manner advocated by anti-environmentalists, using as a resource anything they can get hold of; those which cannot safely do so neither recognize this fact nor can do anything to avert their fate. On the other side, environmentalism makes sense as a movement only on the assumption that human beings can sometimes be persuaded by informing and preaching to change their ways, to go against their training. Members of some other species can be trained to change their habits, but not by these means. The Hindus created their god Brahma in a human image, with three aspects: human beings can create, preserve and destroy. Even those misanthropists who are so repelled by the third aspect of human beings that they would like to see them wiped off the face of the earth – and it has been said that the degree to which a person is biocentric can be judged by the extent of that person's misanthropy – are displaying their humanity. No other species contains members who are capable of hating their own species. Environmentalists often distrust creating and want to place all the emphasis on preserving. But this is usually taken to involve a return to things as they once were rather than preserving things as they now are – and hence involves destruction. They put their case by creating books and articles in which they call upon their readers to engage in that imaginative thinking which is the essence of creativity.

The conception of the web of life on which biocentrism depends has sound scientific foundations. If in spite of that fact, biocentric environmentalism is so often dismissed as a 'lunatic fringe' doctrine, not only by anti-environmentalists but also by humanistic environmentalists, this is insofar as it has (especially in the United States) come to be associated with attitudes of mind which flourished in the 1960s but have taken new shape under the influence of environmentalism.

That association can come about in a number of ways. The web of life is sometimes interpreted monistically, as if it were the name of an entity which could be thought of as having a specific good of its own. Then biocentrism is taken to bring with it the totalitarian conception of a system to the good of which individual rights and individual happiness ought to be sacrificed.

In some eco-feminist versions, where Lovelock's earlier statement of the Gaia hypothesis caught on, the web of life is identified with an Earth Mother (as indeed the name

'Gaia' suggests) and such metaphors as 'the rape of nature' are called upon to support the view that environmental degradation is simply a particular manifestation of patriarchal oppression (Merchant, 1980). A melange of ideas from India, China, Japan is appealed to as inculcating proper attitudes to the environment, in spite of the dismal environmental record of the countries where they flourish. Pantheism and panpsychism are reinstated, along with such doctrines as that every segment of the web of life, including the material environment which living things inhabit, is of equal worth, a doctrine which carries egalitarianism to its most extreme point (Rodman, 1977).

None of these metaphysical speculations, however, is essentially related to the web of life doctrine. This comes out in such a volume as *Green Politics in Australia* (Hutton, 1987), a set of essays by a series of environmental activists. They can by no means be contemptuously dismissed as 'resource environmentalists'; they have fought for the preservation of wildernesses and some of them were closely involved in the formation of the first-ever Green Party in the Australian state of Tasmania, a state rich in wildernesses but relatively poor in other resources. But their political position, like that of most Green parties, stands as far as can be from totalitarianism; they associate environmentalism, rather, with a fully participatory democracy, including industrial democracy. Some of them fought hard to protect urban areas in Sydney against developers; they certainly would not accept any doctrine of equal worth, since they saw Old Sydney as more valuable than what would replace it. One of them recognizes 'eco-fascism' as an outcome particularly to be dreaded (Hutton, 1987, p. 31), in the course of remarking that every political movement has its dark side; a radical eco-feminist, Ariel Salleh, observes (in Hutton, 1987, p. 87) that a fascination with Indian gurus is in Australia confined to young unemployed women, principally lesbian and generally anti-intellectual. Eco-feminism, indeed, takes a wide variety of very different forms (Plumwood, 1986), some of them insisting upon, others rejecting as a stereotype, the view that women will naturally take a uniquely 'caring' attitude to nature.

There could be no better indication of the fact that, although environmentalists can often join hands on particular issues as in the defence of wildernesses or opposition to the mining and export of uranium, they do not form a coherent political group, even to the extent that, say, Marxists or Roman Catholics do. There is an enormous gap between Plato's Republic and a fully participatory community, or between the Christianity, the Zen Buddhism, the Hinduism and the secularism which different environmentalists may display. In general terms, although with greatly varying emphases, they nevertheless share such objectives as the reduction of population growth, the minimizing of pollution, the economizing of resources, the protection of wild species and their habitats. Very many of them link historically with that variety of perfectibilism which sought salvation in small, self-sustaining communities, if now for ecological as well as personal salvation (Bookchin, 1990). They share the belief that fundamental changes are needed both in the built and the social environment and in the attitudes which have both engendered them and flown from them. But their differences are absolute when it comes to the means of bringing about these changes, about exactly what attitudes need to be engendered, exactly what changes must be made in the built and the social environment. The problem which particularly faces them is how our society could move from its present condition to the ideal 'small is beautiful' society they envisage without using agencies – violence, for example, or authoritarian

regulation – to which they mostly object (Goodin, 1992). How, too, are big cities to be abolished, even on the assumption that this is desirable, without the effect being that even less empty space is available? It is not surprising that they operate more effectively as pressure groups than as parties, where many of them feel contaminated by the political atmosphere and others find themselves on opposite sides on some of the issues that a parliament has to debate.

References

Anderson, F., Mandelker, D. and Tarlock, D., eds: *Environmental Protection: Law and Policy*, 2nd edn (Boston, Mass.: Little and Brown, 1990).

Bentham, J.: *Introduction to the Principles of Morals and Legislation* (1789), ed. J. H. Burns and H. L. A Hart, ch. 17, section 4, note B (London: Athlone Press, 1970).

Birch, C. and Cobb, J. B.: *The Liberation of Life* (Cambridge: Cambridge University Press, 1981).

Bookchin, M.: *Remaking Society: Pathways to a Green Future* (Boston, Mass.: South End Press, 1990).

Brundtland, G. H., chair: *Our Common Future* (Oxford: Oxford University Press, 1987).

Callicott, J. B.: 'Animal liberation', *Environmental Ethics*, 2 (1980), 311–38.

Die Grünen: *Das Bundesprogramm*, 1983: trans. H. Fernbach, *The Programme of the German Green Party* (London: Heretic Books, 1983).

Goodin, R. E.: *Green Political Theory* (Oxford: Polity Press, 1992).

Hutton, D.: *Green Politics in Australia* (North Ryde, Sydney: Angus and Robertson, 1987).

Leopold, A.: *A Sand County Almanac* (New York: Oxford University Press, 1949/1966), p. 238.

Lovelock, J. E.: *Gaia, A New Look at Life on Earth* (Oxford: Oxford University Press, 1979).

—: *The Ages of Gaia* (Oxford: Oxford University Press, 1989).

Meadows, D. H. et al.: *The Limits of Growth* (Boston, Mass.: MIT Press, 1972).

Merchant, C.: *The Death of Nature* (San Francisco, Calif.: Harper and Row, 1980).

Naess, A.: 'The shallow and the deep long range environmental movement', *Inquiry*, 16 (1973), 95–100.

Parfit, D.: 'Overpopulation and the quality of life', in *Applied Ethics*, ed. P. Singer (Oxford: Oxford University Press, 1986), pp. 145–64.

Plumwood, V.: 'Ecofeminism: an overview and discussion of positions and arguments: critical review', *Australasian Journal of Philosophy*, supplement, 64 (1986), 120–38.

Porphyry: *de Abstinentia*, iv, 20.

Porritt, J.: *Seeing Green* (Oxford: Blackwell, 1984).

Regan, T.: *The Case for Animal Rights* (Berkeley, Calif.: University of California Press, 1981).

Rodman, J.: 'The liberation of nature', *Inquiry*, 20 (1977), 83–145.

Ryder, R.: 'Experiments on animals', in *Animals, Men and Morals*, ed. R. Godlovitch and J. Harris (New York: Taplinger, 1972), p. 81.

Singer, P.: *Animal Liberation* (London: Jonathon Cape, 1975).

Stone, C.: *Should Trees Have Standing?* (Los Altos, Calif.: Kaufmann, 1974).

Further reading

For critical bibliographies see Nash (1989, appendix) and Davis (1989).

See also:
Attfield, R.: *The Ethics of Environmental Concern* (Oxford: Blackwell, 1983).
Bramwell, A.: *Ecology in the Twentieth Century* (New Haven, Conn.: Yale University Press, 1989).
Davis, D.: *Ecophilosophy: A Field Guide to the Literature* (San Pedro: R. & E. Miles, 1989).
Devall, B. and Sessions, G.: *Deep Ecology: Living as if Nature Mattered* (Salt Lake City, UT: Peregrine Smith, 1985).
Dobson, A.: *Green Political Thought* (London: Unwin Hyman, 1990).
Dryzek, J. S.: *Rational Ecology* (Oxford: Blackwell, 1987).
Goodin, Robert E.: *Green Political Theory* (Oxford: Polity, 1992).
Naess, A.: *Ecology, Community and Lifestyle*, trans. D. Rothenberg (Cambridge: Cambridge University Press, 1989).
Nash, R.: *The Rights of Nature* (Madison: University of Wisconsin Press, 1989; Sydney: Primavera Press, 1990).
Passmore, J.: *Man's Responsibility for Nature* (London: Duckworth, New York: Scribner, 1974; 2nd. edn 1980).
Spretnak, C. and Capra, F.: *Green Politics* (Santa Fe, NM: Bear, 1986).
Sylvan, R.: 'A critique of deep ecology', *Radical Philosophy*, 40 (1985), 2–12 and 41 (1985), 10–22.

Environmentalism: Recent Developments

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The twelve years since John Passmore's chapter was written have been marked by both continuity and change. Many traditional themes continue to be developed in the literature. Much of the evidence from science continues to be alarming (IPCC, 2001; US National Research Council, 2002), though dissenting voices are still to be heard (Easterbrook, 1995; Lomborg, 2001); and a good deal of the major theoretical work is still preoccupied with issues of moral and aesthetic value (Varner, 1998; Agar, 2001; Carlson, 2002; Brady, 2003), the hegemony of economics (Schmidtz, 2001; Sagoff, 2004), political interpretations of environmental concepts (Dryzek, 1997; Meyer, 2001), and articulating radical perspectives, such as deep ecology and eco-feminism (Plumwood, 2002).

Still, outside of academia, there is the sense, especially in the United States, that the environmental movement has stalled (Nordhaus and Schellenberger, 2004). Environmentalists appear to be losing ground on traditional issues such as clean air and endangered species; political institutions seem to be shying away from addressing new, and especially global, challenges, such as climate change; and, most worrying of all, environmentalism has increasingly come to be seen as a partisan concern.

Such issues suggest that several emerging trends in political theory and philosophy are timely. Prominent amongst them is the call for 'environmental pragmatism' (Light and Katz, 1996; de-Shalit, 2000; Light and de-Shalit, 2003). (The connection between this view and the school of American Pragmatism, of William James and John Dewey, is unclear. Light himself expresses agnosticism.) Traditional work, we are told, is 'ivory tower' environmentalism. Its characteristic concerns – such as with meta-ethical

questions – are too distant from the real problems; and the seriousness of these problems makes such a focus border on the self-indulgent. The remedy, it is said, lies in forging a closer connection between the concerns of environmental activists and scientists, on the one hand, and the work of theorists on the other.

As it happens, recent work does suggest an increased interest in the more substantive and institutional aspects of environmental political philosophy.

First, we are now seeing more detailed normative analyses of environmental issues considered as such. This includes topic-specific work on issues such as climate change (Athanasiou and Baer, 2002; Gardiner, 2004), and genetically modified crops (Nuffield Council 1999; Meyer, 2000), as well as a greater focus on understanding core political concepts, such as sustainability (Dobson, 1998; 1999; Jamieson, 2003; Norton, 2005) and precaution (Sunstein, 2004; Gardiner, 2006). There are also attempts to broaden our understanding of the fundamental shape of environmental problems. Consider, for example, recent efforts to move beyond the ubiquitous 'tragedy of the commons' model (Gardiner, 2001; Andreou, 2006), and the development of the theoretical literature on environmental injustice (Schlosberg, 1999; Shrader-Frechette, 2002).

Second, there is greater engagement and interaction with the science, especially in the exploding interest in the philosophy of the life sciences (Sterelny and Griffiths, 1999; Cooper, 2004).

Third, after a history of disdain, there is renewed interest in reconciling environmental concerns with liberalism (Wissenberg, 1998; Eckersley, 2004). This includes more concrete proposals for how to realize green objectives in liberal societies, with major work on topics such as green citizenship (Dobson, 2003) and embedding environmental rights in political constitutions (Hayward, 2004).

It is tempting, then, to think that we are in the midst of a pragmatist revolution. We should be careful here, since pragmatists often have more in mind than merely the injunction to 'get practical' (see Light, 2001). Nevertheless, it is clear that one pragmatist proposal has come to prominence. Pragmatists argue that a rapprochement with anthropocentric motivation is both politically necessary – in order to get anything done – and philosophically appropriate – because the desirability of many environmental policies is theoretically overdetermined (Norton, 1991).

Such claims suggest two strategies for promoting environmental objectives. The first invokes overdetermination directly. The practical environmentalist works to show how different theories lead to the same practical conclusions (e.g., Singer, 2002), or else to construct minimal general principles that are both acceptable to all and justify action (e.g., Shue, 1999). The second is more political. The practical environmentalist aids particular groups in articulating their own positive environmental policies, and thereby helps them to secure an electoral advantage that can help the environment (de-Shalit, 2000).

Such ideas are promising. However, there are reasons for caution. For one thing, traditional environmental theorists argue that our environmental problems are largely caused either by anthropocentrism (Callicott, 1995) or by traditional political ideologies, and so are unlikely to be solved by them, at least without radical transformation (Dobson, 2000). For another, recent work has tended to suggest tensions within anthropocentrism. Consider, for example, potential conflicts between the interests of rich and poor countries, present and future generations (Gardiner, 2001), and

sustainability and social justice (Dobson, 1998). Hence, even given that we have altruistic concerns for spatially and temporally distant people, much needs to be done to show how strong they are and how we might reconcile, engage, reinforce and deploy them in the political arena.

Finally, bringing along the public may involve practical difficulties unrelated to anthropocentrism. For example, overdetermination seems most likely when the future looks especially bleak, such as on some projections of abrupt climate change (Barry, 2005). But this creates obvious presentation problems for environmentalists. How do they avoid looking like irrational alarmists (and so get taken seriously)? And how do they avoid inducing paralysis (if they are taken seriously)?

These are difficult questions. But two strategies immediately spring to mind. The first is to show that tenable solutions are both available and relatively manageable within the familiar contexts of modern life. This option is attractive. But it will not always be plausible; and in any case, it can seem psychologically unrealistic. (If it's really so bad, how come it is so easy to avoid?)

Sometimes, then, environmentalists will need to employ a second strategy of articulating an attractive positive vision for the way humanity might live on the earth. This is not identical to the task of traditional environmental philosophy, but it is close to it. And its pragmatic credentials are impeccable.

References

Agar, N.: *Life's Intrinsic Value* (New York: Columbia University Press, 2001).

Andreou, C.: 'Environmental damage and the puzzle of the self-torturer', *Philosophy & Public Affairs*, 34 (2006), 94–107.

Athanasiou, T. and Baer, P.: *Dead Heat* (New York: Seven Stories Press, 2002).

Barry, B.: *Why Social Justice Matters* (Cambridge: Polity, 2005).

Brady, E.: *Aesthetics of the Natural Environment* (Edinburgh: Edinburgh University Press, 2003).

Callicott, J. B.: 'Environmental philosophy is environmental activism: the most radical and effective kind', in *Beyond the Land Ethic* (Albany: SUNY, 1999; originally published 1995).

Carlson, A.: *Aesthetics and the Environment* (London: Routledge, 2002).

Cooper, G.: *The Science of the Struggle for Existence* (Cambridge: Cambridge University Press, 2004).

Dobson, A.: *Justice and the Environment* (Oxford: Oxford University Press,1998).

— ed.: *Fairness and Futurity* (Oxford: Oxford University Press, 1999).

—: *Green Political Thought*, 3rd edn (London: Routledge, 2000).

—: *Citizenship and the Environment* (Oxford: Oxford University Press, 2003).

Dryzek, J.: *The Politics of the Earth* (Oxford: Oxford University Press, 1997).

Easterbrook, G.: *A Moment on the Earth* (New York: Viking, 1995).

Eckersley, R.: *The Green State* (Cambridge, Mass.: MIT Press, 2004).

Gardiner, S.: 'The real tragedy of the commons', *Philosophy and Public Affairs*, 30 (2001), 387–416.

—: 'Ethics and global climate change', *Ethics*, 114 (2004), 555–600.

—: 'A core precautionary principle', *Journal of Political Philosophy*, 14 (2006).

Hayward, T.: *Constitutional Environmental Rights* (Oxford: Oxford University Press, 2004).

IPCC (Intergovernmental Panel on Climate Change): *Climate Change 2001: The Science of Climate Change* (Cambridge: Cambridge University Press, 2001).

Jamieson, D.: ‘Sustainability and beyond’, in *Morality’s Progress* (Oxford: Oxford University Press, 2003; originally published 2002).
Light, A.: ‘Taking environmental philosophy public’, in *Environmental Ethics*, ed. D. Schmidtz and E. Willott (Oxford: Oxford University Press, 2001).
Light, A. and Katz, E., eds: *Environmental Pragmatics* (London: Routledge, 1996).
Light, A. and de-Shalit, A., eds: *Moral and Political Reasoning in Environmental Practice* (Cambridge, Mass.: MIT Press, 2003).
Lomborg, B.: *The Skeptical Environmentalist* (Cambridge: Cambridge University Press, 2001).
Meyer, J.: ‘Rights to life? On nature, property and biotechnology’, *Journal of Political Philosophy*, 8 (2000), 154–75.
—: *Political Nature* (Cambridge, Mass.: MIT Press, 2001).
Nordhaus, T, and Schellenberger, M.: ‘The death of environmentalism: global warming politics in a post-environmental world’, 2004. Available at: http://www.thebreakthrough.org/.
Norton, B.: *Toward Unity Amongst Environmentalists* (Oxford: Oxford University Press, 1991).
—: *Sustainability* (Chicago, Ill.: University of Chicago Press, 2005).
Nuffield Council on Bioethics: *Genetically Modified Crops: The Ethical and Social Issues* (London: Nuffield Council on Bioethics, 1999). Available at http://www.nuffieldbioethics.org/go/ourwork/gmcrops/publication_301.html
Plumwood, V.: *Environmental Culture* (London: Routledge, 2002).
Sagoff, M.: *Price, Principle, and the Environment* (Cambridge: Cambridge University Press, 2004).
Schlosberg, D.: *Environmental Justice and the New Pluralism* (Oxford: Oxford University Press, 1999).
Schmidtz, D.: A place for cost–benefit analysis’, *Nous-Supplement*, 11 (2001), 148–71.
Schmidtz, D. and Willott, E., eds: *Environmental Ethics* (Oxford: Oxford University Press, 2001).
de-Shalit, A: *The Environment: Between Theory and Practice* (Oxford: Oxford University Press, 2000).
Shrader-Frechette, K.: *Environmental Justice* (Oxford: Oxford University Press, 2002).
Shue, H.: ‘Global environment and international inequality’, *International Affairs*, 75 (1999), 531–45.
Singer, P.: ‘One atmosphere’, in *One World* (New Haven, Conn.: Yale University Press, 2002).
Sterelny, K. and Griffiths, P.: *Sex and Death* (Chicago, Ill.: University of Chicago Press, 1999).
Sunstein, C.: *Laws of Fear* (Cambridge: Cambridge University Press, 2004).
US National Research Council: *Abrupt Climate Change* (Washington, D.C.: National Academies Press, 2002).
Varner, G.: *In Nature’s Interests* (Oxford: Oxford University Press, 1998).
Wissenberg, M.: *Green Liberalism* (London: UCL Press, 1998).

Further reading

Hay, P: *Main Currents in Western Environmental Thought* (Bloomington: Indiana University Press, 2001).
Jamieson, D., ed.: *A Companion to Environmental Philosophy* (Oxford: Blackwell, 2001).

Chapter 31

Equality

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Introduction

The ideal of equality has led a double existence in modern society. In one guise the ideal has been at least very popular if not uncontroversial and in its other guise the ideal has been attractive to some and repulsive to others. These two aspects of equality are *equality of democratic citizenship* and *equality of condition.*

Equality of democratic citizenship has risen in stature because so many of the twentieth-century regimes that have flouted this ideal have been truly despicable. The ideal demands that each member of society equally should be assured basic rights of freedom of expression, freedom of religion, the right to vote and stand for office in free elections that determine who controls the government, the right not to suffer imprisonment or deprivation at the hands of the state without due process of law, the right to equal protection of the law construed as forbidding laws that assign benefits and burdens in ways that discriminate arbitrarily on the basis of such factors as race, creed, gender, sexual orientation and ethnicity, and perhaps the right to an education adequate to enable one to fulfil the duties of democratic citizenship. Different theorists conceive the status of equal democratic citizenship somewhat differently; there is no firm consensus as to exactly what rights are essential to democratic citizenship or what should be the reach of these rights (see Chapter 25).

Equality of Condition

The notion

Beyond equality of democratic citizenship, the political ideal of egalitarianism encompasses something further. Every nation of the world is divided into haves and have-nots. In industrially advanced market economies, some persons live spectacularly well, some moderately well, some stagnate in poverty. The gap between the life prospects of the best-off and the worst-off individuals, in terms of wealth, income, education, access to medical care, employment and leisure-time options, and any other index of well-being one might care to name, is enormous. If one makes comparisons across rich and poor

nations, the gap between best off and worst off is vastly increased. Confronting these disparities, the egalitarian holds that it would be a morally better state of affairs if everyone enjoyed the same level of social and economic benefits. Call this ideal *equality of condition* or *equality of life prospects.*

Equality of condition as I have just characterized it is an amorphous ideal. It cries out for clarification. Exactly what sort of equality of condition is desirable and for what reasons? But before trying to answer that question I want to indicate that egalitarianism in its social and economic dimension has struck many observers as an uninspiring ideal or even as menacingly unattractive or horribly misguided. For the critics, egalitarianism is a dead end, so the exercise of clarifying the notion of equality of condition has been haunted by the worry that the task of clarification will turn out to have been an exercise in futility.

Preliminary doubts

'Equality literally understood is an ideal ripe for betrayal', writes Michael Walzer (1983, p. xi). Equality literally understood requires that everyone should get the same or be treated the same in some specified respect. For example, the regime of *simple equality* according to Walzer is a regime in which everyone has the same amount of money, the same income and wealth, and there are no restrictions on what can be bought and sold. Walzer's objection against simple equality is reminiscent of the distributive justice views of Robert Nozick (1974, pp. 160–4). Since individuals left unrestricted would freely exchange goods and make deals in ways that would swiftly overturn an initially established condition of simple equality, this norm could be upheld over time (if at all) only by continuous exercise of harsh coercion over individuals by the state. But any state capable of carrying out such coercion would become an irresistible target for takeover by a small elite, and the vast inequality in political power among citizens in a society governed by a controlling elite would overshadow the alleged evils of inequality of wealth and income.

This way of putting the point suggests that there might be several forms of literal equality worth seeking, equality of political power among them, and that simple equality of money should not be pursued with single-minded intensity at the expense of other values including the diverse valuable forms of literal equality. The lesson that Walzer wishes to draw from his discussion is quite different, however. According to him the analysis shows the futility of the pursuit of simple equality and by extension the futility of the pursuit of any other sort of literal equality. It is hopeless to try to achieve and sustain any significant literal equality, and the attempt to do so would inevitably steamroller individual liberty and wreak havoc generally. Therefore, we should not seek literal equality, thinks Walzer.

This argument for scrapping the ideal of literal equality proceeds too swiftly. From the stipulated fact that equality conflicts with individual liberty it does not follow that any trade-off that purchases some progress toward equality at the cost of some loss of individual liberty must be morally unacceptable. And from the stipulated fact that no significant norm of literal equality can be fully achieved and sustained it does not follow that the pursuit of no form of literal equality is worthwhile. For all that has been said so far, movement from a state of great inequality to a state of lesser inequality might

be feasible and, from a moral standpoint, highly desirable (Arneson, 1990a). (To clarify this claim, it would be necessary to assert a defensible rule that determines, for any two unequal patterns of distribution, which of the two is the more unequal. For analysis of various measures of inequality, see Sen, 1973.)

A further clue as to what considerations underlie Walzer's position is his suggestion that egalitarians would be well advised to renounce literal equality and seek to promote a non-literal equality ideal which he calls 'complex equality'. The ideal of equality must be complex because there is no one overarching distributional mechanism. Society is divided into distributive spheres, and within each sphere there will arise norms regulating the proper distribution of the good or goods that are unique to that sphere. Such autonomous distribution of each good by the norms of its sphere is threatened by the domination of distribution in one sphere by the outcome of distribution in another sphere; for example, when wealth procures political power or when political power subverts meritocratic job assignment. Walzer stipulates that complex equality obtains in a society when no such domination exists and distribution in all spheres proceeds autonomously according to the norms internal to each sphere.

It is hard to see in what sense complex equality is supposed to be *equality* (Arneson, 1990a; countered by Miller, unpublished). But the ideas – that many different sorts of goods are distributed in a modern society and that the proper way to distribute a good depends on the sort of good that it is – suggest reason to resist the idea that it is morally important to achieve equal distribution of some one good or equal distribution of some measure of all goods among all members of society. The idea that each distributive sphere has its own integrity which should be respected is reason to doubt that society should try to tinker with all distributions in order to achieve some overall measure of equality. There is no reason to expect that some invisible hand would bring it about that the distribution of goods within every sphere according to its own norms would yield an overall pattern of equal distribution, and adjustment by a visible hand would destroy the desired autonomy of the spheres. Or one might think that the various distributional outcomes will not be commensurable on a single scale. But if there is no overall measure of distributional outcomes then the ideal of overall equal distribution is a chimera.

To advance the discussion at this point we need to investigate how *equality of condition* might be defined so as to meet these objections lurking somewhat buried in Walzer's discussion of complex equality.

The Resourcist View of Equality of Condition

Equality of what?

We might start with the thought that people have equal chances to achieve whatever they might seek in life when each person commands equal resources. For the sake of simplicity, imagine that resources can be grouped into three categories: (1) leisure or free time; (2) income (a flow) and wealth (a stock), understood as the opportunity to purchase any of a given array of goods at going prices, up to the limit of one's monetary holdings; and (3) freedom to use whatever goods one possesses in desired ways, within

broad limits. One initial difficulty with this resourcist conception of equality of condition is that it does not seem to realize the ideal of equal life chances for all citizens. Consider a simple example (Arneson, 1989). Suppose that Smith and Jones have similar tastes and talents, but Smith is born legless and Jones has two good legs. Endowed with equal resources (money, leisure time and freedoms), Smith must spend virtually all his money on crutches whereas Jones is able to use his money to advance his aims in a rich variety of ways. In this example it does not seem as though equality of resources guarantees that Smith and Jones enjoy equality of material condition or equality of life chances in any sense that matters.

The objection against a resourcist measure of equality is that it makes more sense to consider what people are enabled to do and be with their resource shares and measure these opportunities than to fixate on resource shares. Resources are means, and (the objection goes) it is fetishistic to focus on means rather than on what individuals gain with these means (Sen, 1980). People are different, and among the differences among people are differences in individuals' capacities to transform given stocks of resources into satisfaction of their goals. Since resources matter to us insofar as they enable us to achieve goals that matter to us, a proper measure of equal life chances should register variations in people's opportunities to fulfil their goals. This fetishism objection against a resourcist measure of equality suggests two alternative standards: we could measure either (1) to what extent individuals are able to fulfil the goals that they themselves value, or (2) to what extent individuals are able to fulfil goals that are deemed to be objectively valuable or worthwhile. In broad terms, the two options are equality of utility or welfare and equality of valued functionings (Sen, 1985, pp. 185–203).

The advocate of a resourcist conception of equality can try to defend her position with two lines of argument. Responding defensively, the resourcist can suggest that the Smith and Jones example only shows that the domain of resources that should be captured by an equality measure should include internal resources of the person as well as external resources. Healthy legs are a valuable personal resource; so, other things equal, Smith who lacks legs is lacking in resources as compared with Jones who is equipped with a healthy pair of legs. This thought gives rise to the extended resourcist ideal of equality of external resources plus talents broadly construed.

At first glance it is not obvious what might be meant by an ideal of equality of individual talents. External resources such as money can be transferred from one individual to another, so the idea of shifting external resources so as to render people's holdings equal is readily comprehensible. But if talents are non-transferable and we eschew the option of achieving equality by destroying the superior talent of the better endowed, how could we conceive of achieving equality of individual talent endowments? We could implement compensatory education offsetting differences of native endowment, but aside from the evident great inefficiencies that would result from any serious effort in this direction, for many talent differences no amount of training could compensate: no feasible educational regimen would enable me to play piano, run high hurdles or solve mathematical problems as well as people who are natively gifted at these endeavours.

One ingenious resourcist ploy, introduced by economists and developed for philosophers by Ronald Dworkin, is to interpret equality of internal and external resources as

satisfied when persons assigned identical bidding resources bid to an equilibrium in which all external and internal resources are put to auction (Varian, 1974; Dworkin, 1981). When one person bids to purchase a person's internal resources – her own or another's – in this auction, ownership is interpreted as ownership of hours of time of the person who has the resource, and ownership of time in turn is interpreted as ownership of labour power – the right to demand from the possessor of the resource the highest amount of money that the person could have earned in the labour market working for the length of time that is owned. On this conception any talent an individual possesses that enhances the value of an hour of her labour power is an internal resource that is up for grabs in the imagined auction. In given circumstances the outcome of such an auction would depend on the ensemble of the tastes and talents of the persons assigned equal bidding resources who participate in the auction procedure. In effect equality of resources so conceived gives each individual an equal share of social scarcity. The value of each resource as measured by the auction is (marginally above) the value placed on that resource by the person or persons in society who make the highest bid for it except for the winning bid.

The weakness in this conception of equality of resources as interpreted by the equal auction is that it leads to the 'slavery of the talented'. To see the difficulty, imagine that Smith has a great talent for singing, which commands a very high price in a given society. Other people will then be willing to bid a lot for hours of Smith's labour time in the equal auction. For each hour of her labour time purchased by others in the auction, Smith will have to work at her most lucrative employment for that hour in order to satisfy the legitimate demand for remuneration by the 'owner' of that hour. Smith's free time is a scarce social resource, so in order to obtain genuine free time for herself Smith must bid for hours of her time, on which the auction sets a high price. In contrast, the untalented Jones, whose labour time is not in high demand, can cheaply purchase hours of her free time for her own use. Smith is as it were enslaved by her talent in the equal auction (Roemer, 1985; 1986).

There are various *ad hoc* devices for avoiding this 'slavery of the talented' result. But none can carry conviction, because slavery of the talented is the straightforward result of applying the auction view of resources to personal talents in order to interpret the norm of equality of external and internal resources. It is not a quirk of formulation.

Against the fetishism objection stated at the beginning of this section, the resourcist has both a defensive and an offensive response. The defensive response is the idea of extending the equal auction to talents, which we have just found to be inadequate. Going on the offensive, the resourcist objects that neither the ideal of equality of welfare nor the ideal of equality of capabilities can satisfactorily interpret the intuitive pre-theoretical norm of equality of life chances. Let us take each objection in turn.

Against welfare as the measure

Imagine that we have a stock of goods to distribute to a given group of persons and that our guiding idea is that the distribution should count as equal if and only if it induces the same welfare or desire-satisfaction level for each person in the group. But suppose that Smith has expensive tastes and wants only champagne and fancy sports cars, whereas Jones has cheap tastes and wants only beer and a sturdy bicycle. Other things

equal, Smith must be assigned far more resources than Jones if the two are to satisfy their desires to the same extent. But according to the resourcist view, equality of welfare is an inadequate conception of equality of life chances, because individuals should be regarded as capable of taking responsibility for their ends, but equality of welfare takes tastes as given, as though they were beyond the power of individuals to control. Taking tastes to be fixed and dividing resources so that persons with different desires, which put varying pressure on socially scarce resources, end up at the same level of desire satisfaction is unfair to those who have cheap tastes (Rawls, 1982).

This objection initially sounds plausible but is rooted in confusion. In order to defend equality of resources it is urged against the norm of equality of welfare that people should be held responsible for their ends, so it is wrong to adjust resource shares so that whatever ends people select, they ultimately obtain equal welfare. What is being appealed to here is the thought that society should not compensate an individual who reaches one rather than another outcome if it lay within the individual's power to determine which outcome she reached. What lies within the voluntary control of an individual should be deemed to be her responsibility, not the responsibility of society.

That something is awry with this line of thought becomes plain when one reflects that what level of resources an individual succeeds in gaining for herself over the course of her life is to some considerable extent a matter that lies within her voluntary control. The idea that society should not take responsibility for compensating individuals for aspects of their situation that are within their power to control does not support equality of resources rather than equality of welfare.

There are two entirely independent issues that must be distinguished in this context. One issue is whether a norm of equality of condition should measure people's positions (to determine if they are equally or unequally situated) in terms of their resources, welfare or functionings. A second issue is whether a norm of equality of condition should be concerned to equalize the outcomes that individuals reach or the opportunities they have to reach various outcomes. The responsibility-for-ends objection in effect holds that it would be unfair to compensate an individual in the name of equality for a deficit in the welfare outcome she reaches if it lay within her voluntary control to have reached higher welfare outcomes. The objection then is urging that as egalitarians we should be concerned to render equal the opportunities that people enjoy rather than the outcomes that people reach by voluntary choice among their opportunities. If this is what the responsibility-for-ends objection is driving at, then it is strictly irrelevant to the issue of whether welfare, resources or functionings would be the best measure for a norm of equality of condition to employ.

This point can be misunderstood. I am not agreeing that individuals should always be deemed fully responsible for their final ends or basic life goals. To some extent these are set for each individual by her genetic endowment and early socialization and education, matters which lie beyond her power to control. Also, even if two persons could voluntarily alter their basic goals from A to B, this task might be extremely difficult or costly for one individual and easy or costless for the second individual. In this case individuals might be deemed responsible to different degrees for their ends (suppose they both adhere to the A goals) even though each of them could have altered her ends by voluntary choice. Third, sometimes even though it is possible for me to alter my ends it would be unreasonable for me to do so. Suppose I now value rock music and I know

there is a therapy regimen I could choose to undergo which would alter my tastes, as I suppose, for the worse, so that my taste for rock music would be supplanted by a love of country & western music. It is at least not clear that a norm of equality of condition should refuse to compensate me for any welfare deficit arising from the fact that I prefer rock over country & western music in these circumstances. The point is not that the responsibility-for-ends objection is fully acceptable but rather that to whatever extent the objection is well taken, it has no bearing on the choice of resources versus welfare as the measure.

Against functionings as the measure

Instead of evaluating people's resource holdings by determining what welfare levels they reach by means of these holdings, we could instead list specific things that their resources enable them to do or be. For example, a given allotment of food to a person can be assessed in terms of the nutritional and vigour levels that the food assists that person to attain. Notice, first, that the same pile of food would be transformed by different individuals into different functionings. Notice, second, that just as we can distinguish the actual level of welfare that a person reaches with her resources and the possible welfare levels that she could have reached had she chosen differently, we can distinguish the functionings an individual actually reaches with a given set of resources and the opportunity set of functionings that the individual could have reached with that set of resources. Amartya Sen speaks in this connection of the *functioning capabilities* provided for a particular person by a given set of resources (Sen, 1990). Here then is another conception of equality: arrange distribution so as to render people's functioning capabilities the same.

At this point the resourcist can object that an indexing problem looms. An egalitarian norm has to incorporate a measure such that one can determine whether or not individuals endowed with mixed lots of resources should be deemed equal or not. But given that there are indefinitely many kinds of things that persons can do or become, how are we supposed to sum a person's various capability scores into an overall total? In the absence of such an index, equality of functioning capabilities cannot qualify as a candidate conception of distributive equality. If your resources give you capabilities A, B and C, and mine give me capabilities C, D and E, our capability sets are non-comparable. Only if your set dominates mine, containing everything in mine plus more, is comparison possible. In the general case, comparison will be possible only if we accept a perfectionist standard which ranks the value of all the functionings that an individual's resources enable her to reach. But the resourcist will further object that no single perfectionist scale of value could possibly be an acceptable basis for interpersonal comparisons for the administration of a distributive equality norm in a modern diverse democracy. For example, capabilities could be assessed according to a Roman Catholic standard that gives priority to prospects of salvation, but a norm of equality of condition rooted in this or any other perfectionist dogma would rightly seem merely arbitrary to many citizens. Equality of functioning capabilities thus collapses as an alternative to equality of resources.

We are now in a better position to appreciate Walzer's doubts about equality of money. We can suppose that equality of money stands as a proxy for the more general

doctrine of equality of resources. Pluralism defeats this ideal – not so much the pluralism of types of goods cited by Walzer but rather the plurality of reasonable evaluative perspectives that citizens might take toward the goods they have. How can we determine definitively that people's holdings of resources are to be judged equal or unequal when individuals will differ in their evaluations of those resource sets? The indexing problem arises for the equality of resources ideal and so far as I can see proves fatal to it (Arneson, 1990b). Given that there are many sorts of resources or goods that individuals may command, in order to decide whether people's holdings are equal or unequal we need to be able to attach an overall value to the holdings of each person. There are just two possibilities. Either resources are indexed by individuals' subjective evaluation of the contribution their resources can make towards their welfare or they are indexed by some scale of value that is deemed to be objectively valid regardless of people's subjective evaluations. This would be a perfectionist norm. In short, equality of resources must collapse either into a welfarist or a perfectionist view, into equality of welfare or equality of valuable functionings.

Equality of Condition: Rivals and Alternatives

Equality versus the doctrine of sufficiency

Harry Frankfurt has advanced strong objections against the doctrine that it is intrinsically desirable that everyone should have the same income and wealth. Some of his objections apply more broadly than just to this specific target. They reach any form of equality of condition.

With respect to the distribution of income and wealth, the argument goes, what should matter intrinsically to an individual is not how well he does compared to others. What matters is not whether one has more or less money or other resources than other persons but rather whether one has enough, given one's aims and aspirations. This rival to egalitarianism can be labelled the *doctrine of sufficiency.* According to Frankfurt, the amount of resources one possesses is sufficient if a reasonable and well-informed person with one's basic aims would be content with that amount and would not actively seek more. Egalitarian doctrines by contrast tend to focus people's attention on questions of comparison – the size of my resource bundle compared to the amount of resources that other individuals command. By encouraging people to think that these comparisons matter intrinsically, even though on a proper analysis they do not matter intrinsically at all, egalitarianism is alienating. It diverts people's energy, their focus of attention and their will to critical reflection away from matters of substance and toward matters that do not really intrinsically matter (Frankfurt, 1987).

Once one clearly distinguishes the question of whether one has enough from the question of whether one has more or less than other persons, the examples that some philosophers offer to illustrate the intrinsic importance of equality will be seen to show nothing of the sort. The resource egalitarian tries to present her favoured principle in an attractive light by considering its application to a situation in which society is divided into income classes that include a very poor and a very rich group. The resource egalitarian then describes the squalid living conditions of the poor. Their infant

mortality rate is high, they lack proper nutrition, clothing and shelter; they are ravaged by diseases that are preventable with the help of medical assistance they cannot afford. The poor are denied access to all but the shabbiest education and degrading, rote, unskilled jobs. They are cruelly afflicted by vulnerability to crime. And so on. In all these respects the rich enjoy vastly more favourable life expectations. The resource egalitarian then invites us to accept the moral principle that other things equal it is morally desirable that people should have equal money (or, more broadly, equal resources).

The proponent of the doctrine of sufficiency protests that the considerations adduced in the presentation of such examples do not support egalitarianism. For the story the egalitarian tells is one according to which the poor manifestly do not have enough to enable them to lead decently satisfactory lives. The poor are also described as worse off than the rich along the dimension of resource share possession. But is the morally salient feature of the example, prompting the judgement that resources ought to be transferred from the rich to the poor, really the relative disadvantage or rather the insufficiency suffered by the poor?

The sufficiency advocate proposes a way to answer this question. Imagine that all of the members of a society enjoy a very high standard of living, so that everyone can reasonably be presumed to have sufficient resources to support a thoroughly satisfactory life, even though the relative gap between the wealth and income of the rich and poor remains just as large as in the first example described by the resource egalitarian. In comparative terms, the poor are just as badly off in the revised example, in which they enjoy a high level of affluence, as they were in the original example. Resource egalitarianism would then seem to be committed to the judgement that the moral imperative of transferring resources from rich to poor is equally compelling in the two examples. Many will find this judgement unappealing. In contrast, the sufficiency advocate has a ready explanation for the judgement that the case for transfer from rich to poor is strong in the first example and non-existent in the second example. In the second example it is plausible to suppose that the poor have enough, and how resources are distributed above the line of sufficiency is simply not important from a moral standpoint.

Frankfurt's argument is explicitly directed against the doctrine that upholds equality of money, and some of his comments reflect the thought that it is fetishistic to attach intrinsic significance to resources rather than the extent to which people are enabled by their resource shares to satisfy reasonable goals. So understood, his argument, if successful, would rebut resource egalitarianism, not welfare egalitarianism. But the sufficiency advocate is better interpreted as opposing all versions of equality of condition, not just resourcist versions of this doctrine. The problem is not (merely) that the resource egalitarian is focusing on the wrong sort of comparisons. According to the doctrine of sufficiency, the flaw in egalitarianism lies deeper. Any distributive doctrine that ascribes intrinsic significance to comparisons of relative shares – and hence any egalitarian doctrine – is wrong-headed and fetishistic.

The argument of the sufficiency theorist against egalitarianism raises complex issues. I shall respond briefly to three major issues that should be held distinct.

Resource egalitarianism is fetishistic We care about resources only because either they can do something for us or we can do something with them. Even Silas Marner, who

wants resources for their own sake, likes them because of what one can do with them. And anyway, the Silas Marner syndrome of wanting to have resources but not to use them is uncommon. Since resources virtually by definition are valued as means rather than as ends for their own sake, a theory of distributive justice should at the fundamental level be concerned with what resources enable a person to be or do. This scale could be either subjectivist or perfectionist. The resource holdings of an individual could be measured either by the extent of desire satisfaction they enable her to achieve or by the extent to which they enable her to reach objectively valuable states of affairs. Both the subjectivist and the perfectionist options run into difficulties, but whichever way we go at this juncture, resources drop out of the picture of what fundamentally matters for distributive justice.

Comparisons are alienating The claim is that we should not care about equality of condition because no one should care, except instrumentally, how his condition compares to that of others. I defer consideration of this issue until later.

Sufficiency for all is morally important whereas equality among all is not According to the doctrine of sufficiency, what is morally important is not that everyone should have the same but that as many as possible should have enough. But how much is 'enough'? The examples cited above appeal to the thought that the project of enabling people to rise above dire poverty is a matter of greater moral urgency than the project of enabling everyone to have the same whatever her level of affluence. But a person who has risen above dire poverty could still do much better. As Frankfurt defines *sufficiency*, a person attains this level only when she is content with what she has and would not actively seek more. If there is any level at which it would be reasonable for a person to be content and not seek more, this sufficiency-marking level will surely be high – far above the barely beyond poverty level. But then one cannot appeal to the great moral urgency of lifting people above dire poverty to demonstrate the moral urgency of bringing it about that everyone has enough, for the sufficiency level and the just above poverty level are unlikely to coincide for any individual. If attaining sufficiency is morally important that cannot be because escaping poverty is morally important.

There may also be a problem about continuity for the doctrine of sufficiency. If the doctrine of sufficiency holds that getting people just to the sufficiency level is important but moving them beyond that level is unimportant, that would seem to attach undue weight to a tiny gain from a point just on one side of a line as compared to a tiny gain to a point just past the line. Assume that the level of sufficiency is calculated in welfare terms and that Smith's sufficiency level is judged to be 100. The doctrine of sufficiency would seem to be committed to saying that moving Smith from 99.99 to 100 is a morally weighty matter whereas moving Smith from 100 to 100.01 is a trivial matter. This view seems arbitrary. However, this result could be avoided by a function that weights the moral value of gains so that in the neighbourhood of the sufficiency line (on either side) gains matter more, with the weight gradually tapering off as one moves away from the sufficiency line. So the continuity objection against the doctrine of sufficiency is not decisive.

According to Frankfurt, an individual has enough at the point at which she is content with what she has, and reasonably would not actively seek more. But perhaps

a reasonable person would always seek ever more. If so, the doctrine of sufficiency as interpreted by Frankfurt sets no upper bound to reasonable seeking. The doctrine of sufficiency is supposed to be counterposed to a maximizing view of rationality (Slote, 1989). Instead of seeking to maximize one's benefits, a rational person (insofar as she seeks her own self-interest) according to the sufficiency doctrine might seek a moderate amount deemed to be satisfactory and be content with that. But in order to get clear on the difference between a maximizing conception of rationality and a sufficiency conception, one should note that the decision not to seek further gains can be part of a maximizing strategy. The gains might be associated with costs such that there is no net gain from further seeking. Or the reach for gain might also carry a risk of losses, such that one maximizes expected utility by forgoing the reach for gain. A satisficing strategy (seek a satisfactory level of gain and do not search further for more) can be a maximizing strategy in circumstances where any further stretch for more carries a loss of expected utility. Moreover, viewing a policy of moderation as a maximizing strategy solves the problem of how one might non-arbitrarily set the 'satisfactory' or 'sufficiency' level: the level is to be set at a level that maximizes expected gain.

Once we observe the need to distinguish a genuine doctrine of sufficiency or moderation from moderation or satisficing as a means to maximization in certain circumstances, we see that the doctrine of sufficiency is committed to the following. For each individual one can determine a level of benefit such that with her aims, the individual should reasonably be content with this level and not seek more. Even if the individual could certainly secure a large net gain for herself by taking action, the individual would be reasonable to forgo such action on the ground that what she has already suffices. For example, I have been looking for a house that is by the beach, large, and visually attractive, and I have determined that finding a house with any two of these desirable features would suffice. I have located such a house and am satisfied with it, but before I conclude a deal for a sale an agent who knows my tastes perfectly informs me that a house with all three desirable features is available at the same price on the same terms. The first house suffices, the second house is better, and the cost of making a deal and the risk that no deal can be reached are the same for the first house and the second. The doctrine of sufficiency is committed to the claim that in some cases that fit this description the individual would be reasonable to take the first house rather than the second because the first house suffices. On a maximizing view, taking less when one could get more is irrational.

As the doctrine of sufficiency is described, it becomes decreasingly clear why attaining the level of sufficiency should always be a matter of special moral urgency. Suppose that there are three groups of individuals, very poor, poor and well off, and that all individuals within each group happen to have goals such that the level of sufficiency is the same for all of them. Suppose that we could either move the very poor group to the poor level, where none will attain the level of sufficiency, or we could move an equal number of well-off individuals to a level of sufficiency for each of them. I don't see that helping the very poor should have lesser priority than helping the well off even though only helping the well off in these circumstances will thin the ranks of those who do not have enough. For example, it is consistent with the terms of the example set so far that more utility is gained overall if the very poor are helped than if the well off are enabled to gain sufficiency. Consider also a second example. We can choose either to move the

very poor group to the poor level or with the same resources we can move the well-off group far past sufficiency to the bliss level, which we may assume to be far past sufficiency on a utility scale. Suppose that in the second example enormously more utility is produced by raising the better off to bliss than by raising the very poor up the ladder a bit. So in this case, I submit, choosing to help the better off might well be morally preferable to helping the very poor, given the disparity in the gains each group would get from the help we could give. In neither example does the 'sufficiency' level, even supposing it can be defined coherently and determined non-arbitrarily, provide any special reasons for choosing to help one set of potential beneficiaries rather than another.

I conclude this section by summarizing the discussion: three aspects of Frankfurt's attack on the ideal of equality of condition have been distinguished. The objection that resource egalitarianism is fetishistic is well taken, but leaves other versions of the equality of condition ideal unscathed. A second objection is that any doctrine of distributive justice that attaches intrinsic importance to comparisons among persons' holdings is alienating. I have set this aside for now. A third objection claims that egalitarianism should be rejected in favour of a superior rival, the doctrine of sufficiency. I have tried to rebut this objection by casting doubt on the adequacy of the doctrine of sufficiency.

Equality versus Pareto

Equality of condition conflicts with the Pareto norm, which many view as a minimally controversial and highly plausible fairness requirement.

Consider the version of equality of condition that holds: everyone should have the same amount of goods (according to the most appropriate measure of 'goods'). Following Joseph Raz (1986, pp. 225–7), we can state the principle in these other words: if anyone is to have some amount of goods, everyone should have the same amount. In a context where lumpy (not continuously divisible) goods are to be distributed, this principle of strict equality dictates wastage or destruction of goods. If there are three exquisite marble statues to be distributed among four persons, the only distribution consistent with equality is that no person gets any statues. As Douglas Rae and his associates (1981, p. 129) comment, reflecting on this implication of equality, 'Equality itself is as well pleased by graveyards as by vineyards.'

Another equally familiar example involves the distribution of goods to persons when the distribution we enforce now will affect people's incentives to behave and thus the distribution that will come about later. In the familiar image, how a pie is distributed now can affect the size of the pie that will be produced later. If society offers superior remuneration for superior performance, those capable of superior performance will be given an incentive to produce it. Remuneration schemes that elicit higher productivity can produce gains for everyone over an extent of time compared to the baseline of equal distribution.

The principle of strict equality holds that the equality it recommends should be upheld (1) even when unequal distribution would render everyone better off, and (2) even when unequal distribution would render someone better off and no one worse off. In the face of these implications, one might temper advocacy of equality by holding that

equality should have lesser priority than the Pareto norm. A state of affairs is Pareto optimal when it is not possible to change it by making someone better off without making anyone worse off. A state of affairs is Pareto suboptimal when it is possible to change it by making someone better off without making anyone worse off. The Pareto norm simply holds that principles of distributive justice must not recommend Pareto suboptimal distributions.

The Pareto norm appears to express a minimal and rather uncontroversial notion of fairness: if one can make someone better off without making anyone else worse off, why not do so? Sometimes the idea of Pareto optimality is construed in terms of utility or desire satisfaction: a state of affairs is Pareto optimal when no one's level of desire satisfaction can be increased without decreasing someone else's level of desire satisfaction. When the idea of Pareto optimality is so construed, it can be challenged by imagining cases in which someone's desires are perverse or degraded, and querying why matters are improved when someone's perverse or degraded desires are better satisfied. But this challenge reflects doubt that someone is always better off whenever their level of desire satisfaction is increased, not a challenge to the idea of Pareto optimality or the Pareto norm *per se.*

The Pareto norm as stated at the end of the last but one paragraph is ambiguous. When the ambiguity is removed, the Pareto norm takes a less controversial and a more controversial form. First, notice that *Pareto optimality* is defined in terms of what is possible in principle. In practice, the achievement of Pareto-optimal or -efficient outcomes may be unfeasible. We can imagine a possible improvement but cannot achieve it. Second, the Pareto norm can be given a weak and a strong formulation. The weak Pareto norm holds that principles of distributive justice should not recommend outcomes from which it is feasible to effect a Pareto improvement. The strong Pareto norm holds that principles of distributive justice should not recommend outcomes from which it is in principle possible to effect a Pareto improvement, whether or not such improvement is feasible. The weak Pareto norm is less controversial, the strong Pareto norm more so.

To illustrate the difference: suppose that raising the incomes of the poor is a goal of equity and that to achieve this goal an income tax is instituted. The income tax will distort taxpayers' leisure versus income decisions and hence inevitably produce inefficiency. If we do all we can to pick the policy that results in the least efficiency that is compatible with achieving the equity goal, the policy is a constrained Pareto optimum and the weak Pareto norm is satisfied. But the strong Pareto norm tells us not to select any outcome off the Pareto frontier. Restricting the policy choice in this way may not allow any movement at all in the direction of satisfying the equity goal, given that any move toward equity inevitably involves some inefficiency. In general, the strong Pareto norm is a very demanding principle that many will reject. The weak Pareto norm says that other things being equal, achieving Pareto optimality is desirable. The strong Pareto norm says that the goal of achieving Pareto optimality should take absolute priority over all other values.

The principle of strict equality conflicts with the strong, not the weak, Pareto norm. So if one's response to the conflict between Pareto optimality and equality is to give equality no weight at all in conflict with Pareto, my hunch is that the explanation of this response is likely to be that one gives little or no weight to equality *per se* (contrary

to what one might initially have supposed). After all, where a fairness or equity requirement that elicits strong allegiance conflicts with the strong Pareto norm, the committed will dig in their heels: 'So much the worse for efficiency.'

A commitment to adherence to the norm of strict equality when it conflicts with the Pareto norm need not involve complete indifference to the level of human welfare or well-being at which equality is sustained. For instance, one might opt for the view that equality should be always sustained at the highest feasible level of welfare for all. This view might be motivated by the background beliefs that (1) people's welfare should be proportional to their personal deservingness, and (2) no one ever really is more deserving than another person because the achievements and dispositions that are cited as evidence of superior deservingness always turn out under examination to be determined by features of inheritance and favourable socialization for which the supposedly deserving individual can take no credit. So everyone's deservingness is always the same as anyone else's and if people are to be rewarded according to their deservingness their rewards should always be exactly equal. But what is odd about these background beliefs is the combination of the thoughts that the conditions of differential deservingness among persons are never met and that deservingness still matters morally a great deal.

Equality versus tilting towards the worse off

If you give lexical priority to the Pareto norm over the principle of strict equality, my suggestion is that this ranking reveals that equality *per se* matters little or not at all to you. One possibility worth exploring is that the commitment to egalitarianism is not a matter of favouring equality *per se* but a matter of giving priority to the worst off. Parfit (1990) explores the differences between these and related moral norms.

It is instructive to observe how giving priority to the interests of the worse off might readily be conflated with valuing equality of condition for its own sake when the task is to distribute a fixed stock of goods. Suppose that we have on hand a fixed stock of the good X, which can be divided as finely as one pleases. X is intrinsically valuable, not merely valuable as a means to further goods, and the morally appropriate distribution of X is thought to be desirable for its own sake and not merely as a means to achieving a distribution of some further good. There are N individuals in society and for each of them, the more of X one has, the better off one is. If the task is to distribute X according to one's moral values, the goal of equal distribution and the goal of doing as well as one can for the worst off both recommend the same choice of distribution: divide X so that each of the N persons has an equal share, a 1/N share. Indeed, not only a strict leximin priority for the worst off recommends equal division; any rule that assigns even slightly greater weight to the worst off as against everyone else would recommend equal division.

The differences between literal equality and priority to the worst off only emerge into view when one considers examples in which how one distributes a stock of goods affects aggregate production of the final good whose distribution is the object of moral concern. Consider a simple two-period example in which the pattern of distribution in the first period affects the amount to be distributed as well as the pattern of distribution in the second period. Imagine that society can choose between just two distributions: one

which yields an equal distribution of utility for all persons summed across the two periods, and another distribution, which induces able individuals to produce more in the first period by offering a reward of high consumption in the second period for high production in the first period. In the second distribution there is inequality of utility but everyone is better off under this distribution than they would be under the equal distribution rule. In this example the norm of equalizing utility favours the equal distribution choice while the norm of maximizing utility giving priority to the worst off favours the unequal distribution because the worst off do better under inequality than under the regime of equality. Equality is only instrumentally valuable from the perspective of the norm of giving priority to the interests of the worst off.

This tilting conception of egalitarianism is given a specific expression in John Rawls's difference principle, the maximin norm (Rawls, 1971). Thomas Nagel (1979, pp. 117–18) offers this characterization of the general idea: 'The essential feature of an egalitarian priority system is that it counts improvements to the welfare of the worse off as more urgent than improvements to the welfare of the better off.' The idea of giving priority to the worse off is of course independent of the issue of whether one measures individual positions in terms of welfare, resources, functionings or some further alternative, but let that pass. If in pairwise competition one always favours the worse off, one ultimately favours the worst off, so Nagel continues: 'What makes a system egalitarian is the priority it gives to the claims of those whose overall life prospects put them at the bottom, irrespective of numbers or of overall utility.' Notice that the last phrase quoted from Nagel introduces a quite new idea: to the proposal to favour the least advantaged is now conjoined the much stronger requirement of lexical priority – a prohibition against trade-offs between the advantage of the least well off and the better off. But in the general case the maximin injunction to give lexical priority to the interests of the worst off in any conflict with the interests of better-off individuals is implausible. Maximin implies that if one's choices are limited to keeping the status quo or altering it by subtracting a penny from the holdings of the worst off so as to gain a million dollars for the second worst off, the status quo should be retained. Few would ratify such an extreme weighting. It would be better to examine Nagel's interpretation of egalitarianism separately from the issue of the appropriateness of lexical priority.

Let us say that a *tilting* conception of egalitarianism is one that assigns greater moral weight (as specified in the next sentence) to achieving same-sized gains or preventing same-sized losses for those persons who rank worse off than others on an ordinal scale. According to a tilting conception, the comparative moral urgency of bringing about a same-sized gain for one person as opposed to another is determined, so far as egalitarianism is concerned, entirely by their ordinal ranking. The worst off is given priority over the second worst off, who in turn is given priority over the third worst off, and so on. The comparative weighting, the degree of tilting towards the interests of the worse off, is a matter that this definition leaves open: this can vary from the extreme weighting of a maximin principle to a principle that accords just marginally greater urgency to gains for the worse off (such a principle would be barely distinguishable in its recommendations from a straight aggregate maximizing principle).

Tilting conceptions including Rawlsian maximin regard the moral urgency of achieving a benefit of a given size for a given person as a function solely of the ranking

that identifies how well off the person is by comparison with others (so long as the benefit to be conferred does not alter the comparative rankings). What counts is only whether the person is worst off, second worst off, and so on. The absolute amount of the gap that separates individuals at these various benefit levels does not have any bearing on the issue of moral urgency. But the information that tilting conceptions bid us ignore in deciding on our course of action is plainly relevant.

To illustrate the problem, consider the issue of the moral value of conferring a very small welfare gain on either the best-off or the worst-off member of society under two conditions, great inequality and approximate equality. Under great inequality the gap between worst off and best off is enormous, say 1000 on a welfare scale. Under approximate equality the distribution of welfare has been compressed so that there is only a very slight difference, say two units, between the welfare levels enjoyed by the best off and the worst off. Tilting principles will not find these two conditions morally distinguishable. Exactly the same priority will be assigned to aiding the worst off in the two conditions. But I submit that whether we confer a welfare gain on the best off or the worst off is intuitively a matter of grave urgency when the gap between top and bottom is very great and a morally inconsiderable matter when the gap between top and bottom is very small. Moreover, it is not just the absolute value of the gap between top and bottom welfare levels that is decisive for judgements ranking the moral urgency of giving aid to better off or worse off, but also the absolute value of the welfare level enjoyed by the worse off. (An absolute gap of 8 between the welfare levels of top and bottom might qualify as a great gap if the initial welfare level of the worst off is zero yet would qualify as a small gap if the initial welfare level enjoyed by the worst off is 1000 on the same scale.)

It is implausible to suppose that only ordinal welfare rankings determine the moral value of conferring a gain of a given size on a person. Consider instead the thought that comparison of any sort is a secondary phenomenon in determining the value of conferring a gain on a person. This is the thought raised by Frankfurt above (1987, p. 498). Consider this principle: the moral value of achieving a welfare gain of a given size (or preventing the loss of a given size) for a person is greater, the lower is that person's cardinal welfare level (Weirich, 1983). This principle is not essentially comparative, as we can see by noting that it has implications for a one-person Robinson Crusoe world. (Suppose that there are two moral principles that should guide Crusoe: respect the natural environment for its own sake, and increase your welfare. The principle we are considering tells Crusoe that the higher his welfare becomes, the more weight he should give to respecting the environment.) But of course, in cases where we have to choose between helping one of several persons, the principle (once rendered determinate in content) would provide a basis for comparison that would determine the moral urgency of helping one rather than another.

Conclusion

One lesson of this chapter is that equality of life prospects is an elusive ideal. Versions of it abound. The indefiniteness of this egalitarian ideal tends to obscure the issue of its attractiveness. My hunch is that for many persons (including myself) who regard

themselves as egalitarians, the content of this concern has nothing to do with favouring equality *per se* or even with giving priority to the worse off. The underlying value that supports equality sometimes and giving priority to the worst off often is the idea that the moral benefit of conferring a given benefit on a person is greater, the worse off the person is prior to receipt of this benefit. But whether or not one happens to agree with this thought, it should be agreed that the extent to which it is rational to endorse the norm of equality cannot be determined until equality is distinguished from priority to the worse off and other, different values with which it might be conflated. 'How could it not be an evil that some people's life prospects at birth are radically inferior to others?' Nagel (1991, p. 28) asks. But in fact, Nagel agrees with Rawls that to the extent that these inequalities were found to be maximally productive for those who suffer inferior prospects, the inequalities would not be morally regrettable.

The displacement of equality by other moral ideals can seem disquieting. In the writings of several of the authors canvassed in this survey one can discern in those who reject some versions of equality a tendency to cast about for some sort of equality that can be embraced as intrinsically morally desirable. Rejecting simple equality, Walzer endorses complex equality (whatever that is). Rejecting any ideal of equality of condition prescribing equal distribution of some good to all members of society, Miller (1990) endorses equality of status, which is stipulated as holding just in case every citizen regards herself as fundamentally the equal of every other citizen. (This ideal could be met in a hierarchical feudal or *laissez-faire* capitalist society all of whose members are Christian and regard each other as equally loved by God and so fundamentally equals.)

Even Ronald Dworkin, who at least tentatively appears to endorse equality of resources as a distributive ideal, regards a commitment to equality of resources as flowing from a commitment to a more abstract and more fundamental political ideal of treating all citizens as equals. Government has 'an abstract responsibility to treat each citizen's fate as equally important' (1986, p. 296). According to this abstract conception of equality, 'the interests of each member of the community matter, and matter equally' (Kymlicka, 1990, p. 4). Abstract equality is also said to require the government to treat all citizens with equal concern. In response: these formulations are not equivalent to one another. Different notions are being bandied about under the heading of 'abstract equality'. Roughly, what the ideal of abstract equality appears to come to is non-discrimination or impartiality: a government should not arbitrarily discriminate in its treatment of one citizen versus another, but should impartially treat all citizens in a principled way. The interests of any citizen should weigh the same as any other in government policy, according to whatever function mapping interests to policy is entailed by correct principles. Without further substantive moral premisses this abstract 'equality' does not imply egalitarian treatment of citizens in any substantive sense. If Dworkin ends up endorsing any conception of equality of life prospects, that posture cannot be supported by interpreting abstract equality. No amount of interpretation of a non-egalitarian premiss will imply a substantively egalitarian principle without the addition of substantive moral premisses. The rhetoric of 'interpretation' and of rendering 'abstract' equality more 'concrete' can only serve to obscure exactly what those premisses might be and what reasons might support them.

References

Arneson, R.: 'Equality and equal opportunity for welfare', *Philosophical Studies*, 56 (1989), 77–93.
—: 'Against "complex equality" ', *Public Affairs Quarterly*, 4 (1990a), 99–110.
—: 'Primary goods reconsidered', *Nous*, 24 (1990b), 429–54.
Dworkin, R.: 'What is equality? Part 2: equality of resources', *Philosophy and Public Affairs*, 10 (1981), 283–345.
—: *Law's Empire* (Cambridge, Mass, and London: Harvard University Press, 1986).
Frankfurt, H.: 'Equality as a moral idea', *Ethics*, 98 (1987), 21–43.
Kymlicka, W.: *Contemporary Political Philosophy: An Introduction* (Oxford: Oxford University Press, 1990).
Miller, D.: 'Equality', in *Philosophy and Politics*, ed. G. Hunt (Cambridge: Cambridge University Press, 1990).
—: 'Complex equality', manuscript.
Nagel, T.: 'Equality', in *Moral Questions* (Cambridge: Cambridge University Press, 1979), pp. 106–27.
—: *Equality and Partiality* (Oxford: Oxford University Press, 1991).
Nozick, R.: *Anarchy, State, and Utopia* (New York: Basic Books, 1974).
Parfit, D.: 'On giving priority to the worse off', manuscript, 1990.
Rae, D., Yates, D., Hochschild, J., Morone, J. and Fessler, C.: *Equalities* (Cambridge, Mass.: Harvard University Press, 1981).
Rawls, J.: *A Theory of Justice* (Cambridge, Mass.: Harvard University Press, 1971).
—: 'Social unity and primary goods', *Utilitarianism and Beyond*, ed. A. Sen and B. Williams (Cambridge: Cambridge University Press, 1982), pp. 159–86.
Raz, J.: 'Equality', in *The Morality of Freedom* (Oxford: Oxford University Press, 1986), pp. 217–44.
Roemer, J.: 'Equality of talent', *Economics and Philosophy*, 1 (1985), 151–86.
—: 'Equality of resources implies equality of welfare', *Quarterly Journal of Economics*, 101 (1986), 751–84.
Sen, A.: *On Economic Inequality* (Oxford: Oxford University Press, 1973).
—: 'Equality of what?', *The Tanner Lectures on Human Values*, vol. 1, ed. S. McMurrin (Cambridge: Cambridge University Press, 1980), pp. 195–220.
—: 'Well-being, agency and freedom: the Dewey lectures 1984', *Journal of Philosophy*, 82 (1985), 169–221.
—: 'Justice: means versus freedom', *Philosophy and Public Affairs*, 19 (1990), 111–21.
Slote, M.: *Beyond Optimizing: A Study of Rational Choice* (Cambridge, Mass.: Harvard University Press, 1989).
Varian, H.: 'Equity, envy, and efficiency', *Journal of Economic Theory*, 9 (1974), 63–91.
Walzer, M.: *Spheres of Justice: An Essay on Pluralism and Equality* (New York: Basic Books, 1983).
Weirich, P.: 'Utility tempered with equality', *Nous*, 17 (1983), 423–39.

Further reading

Alexander, L. and Schwarzschild, M.: 'Liberalism, neutrality and equality of welfare vs. equality of resources', *Philosophy and Public Affairs*, 16 (1987), 85–110.

Arneson, R.: 'Liberalism, distributive subjectivism, and equal opportunity for welfare', *Philosophy and Public Affairs*, 19 (1990), 158–94.

Cohen, G. A.: 'On the currency of egalitarian justice', *Ethics*, 99 (1989), 906–44.

—: 'Incentives, inequality, and community', unpublished Tanner Lectures.

Daniels, N.: 'Equality of what? Welfare, resources, or capabilities?', *Philosophy and Phenomenological Research*, 50, supp. (1990), 273–96.

Dworkin, R.: 'What is equality? Part I: equality of welfare', *Philosophy and Public Affairs*, 10 (1981), 185–246.

Scanlon, T.: 'Preference and urgency', *Journal of Philosophy*, 72 (1976), 655–69.

—: 'The significance of choice', *The Tanner Lectures on Human Values*, vol. 8, ed. S. McMurrin (Salt Lake City, UT: University of Utah Press, 1988), pp. 149–216.

Sen, A.: *On Economic Inequality* (Oxford: Oxford University Press, 1973).

Van Parijs, P.: 'Equal endowments as undominated diversity', *Alternatives to Welfarism: Essays in Honour of Amartya Sen*, a special issue of *Recherches Economiques de Louvain*, 56 (1990), 327–55.

Chapter 32

Federalism

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In the nineteenth and twentieth centuries, federations became a widely used constitutional form. They were rare before the nineteenth century and it may be that they will become less attractive in the twenty-first century. But for now they are well approved. And this is surprising because this era has also been an era of nationalism when the nation-state, the sovereign political organization of the folk, is also well approved. These two forms are in some ways contradictory: nation-states derive from, justify and separate out a single ethnic group, while federations may – and often do – bring together political units with different ethnic bases. So a difficult problem for interpreting federalism is to explain the modern approval of this pragmatic, instrumental constitution in an era that embraces simultaneously the emotional and often irrational loyalties of nationalism.

To begin, just what is federalism or the notion of government by federation? One elementary feature is a two-tier government. A set of constituent governments acknowledge that a federal government has authority over all their territory and people for those functions covering the whole territory, while they retain for themselves those functions related just to their own territories. But, of course, all governments – except those with tiny populations – are decentralized with at least two tiers. So the number of tiers cannot be the distinguishing feature of federalism.

If we take the word seriously, it must depend on an agreement. Its Latin root *foedus* is an agreement or covenant, but it is a very special kind of agreement because *foedus* is also *fides* or trust. So by its root a federation is a bargain about government, a bargain based, however, not on an enforcement procedure, but on simple trust itself. Ordinary bargains or contracts depend on a judiciary to punish reneging. But the agreement to create a judiciary can hardly depend on what is yet to be created. So the special covenant of a federation is necessarily something continuously advantageous to all parties. When all are known to benefit, then each can reasonably rely on the others to keep the agreement. This is enforcement by rational mutual confidence in each other.

The content of this agreement is the division of functions among tiers. All governments are organized in tiers, but federations embody the arrangement of tiers in a permanent agreement. It ensures that governments at the constituent and central tiers always exist and retain their assigned duties. Governments that are not federations can reorganize the local units at will, destroying old regional units and creating new ones.

But in federations the constituent units have agreed with each other that each will retain its identity and its unique functions.

Thus federalism is a constitutionally determined tier-structure. If its constitutional feature is ignored, then it is merely some particular arrangement for decentralization. Unfortunately, in recent years students of policy (especially economists) have so treated it. Thereby they have overlooked the whole point of federalism, namely that the tiered structure cannot be arbitrarily revised.

To visualize this concept of federalism, consider a set of governments each with its own territory. At one extreme they can be totally independent of each other. If they undertake concerted action, however, they at least need institutions to execute it. The simplest such institution is an alliance, where all the decision-making power continues to reside in the independent governments, but where there is also some executive authority to carry out the (usually unanimously) agreed action. Alliances are, however, often fragile and ineffective. So if the independent governments want permanence and efficiency, they may federate and thereby create a central government with independent decision-making authority for some functions. Finally, at the extreme of integration, the independent governments may simply vanish into the imperial centre. So we can set forth the scale of centralization in Figure 32.1 and thereby demarcate federation from other forms fairly sharply. For a federation to exist, the central government must have authority to decide on action for at least one function entirely on its own and without reference to the preferences of the constituent government. (If the central government cannot do this much, then the organization is at best an alliance.) On the other hand, the constituent governments must also have authority to decide on action for at least one function entirely independently of the centre and each other. (If they cannot do this much, then the organization is completely unitary.) Federations thus cover a wide range of divisions of functions. Those close to the alliance end of the scale are called peripheralized and those close to the unitary end are called centralized.

The complexity of this description and the lack of clarity in the assignments of functions suggest an obvious question: why on earth would framers of constitutions adopt so difficult a political form? The answer is, of course: so that the rulers of a set of independent states can accomplish some objective that is not feasible independently or in alliance. Of course, the rulers of one state might incorporate other states into their state in order to aggregate resources. Indeed, throughout recorded history this is what has usually happened. Imperial expansion is a far more frequent method of aggregation than is federalism. But imperial expansion is costly, if, that is, the potential victims resist. So occasionally ambitious expansionists federate rather than conquer.

Extreme decentralization			Extreme centralization
Independent governments	Alliance	Federation	Unitary state or empire
Peripheralized			Centralized

Figure 32.1 Degrees of centralization

What goals are sufficiently desired to lead to federation? The goal most frequently observed is military, though, of course, that goal is always instrumental. Wars are not usually fought for their own sake, for the pure joy of fighting and dying, but, aggressively for the sake of trade, territory, plunder and tribute, or, defensively, for the sake of resistance and independence. Success in war depends, however, on resources. So the aggregation of resources for war is the primary, though instrumental, motive for federation. Indeed, the rulers of all successful federations, that is, federations that have lasted more than a few years, have initially displayed some kind of military purpose.

One frequent purpose has been rebellion or civil war. Subordinate units of an empire rebel simultaneously and then federate for better resistance. Thus the Dutch republic facilitated the rebellion of the provinces in the Netherlands against the Spanish dominion; the United States facilitated the rebellion of some American colonies against Great Britain; and the several Spanish American federations (Argentina, Mexico, Venezuela, Gran Columbia, the Central American Federation, the latter two of which were short-lived) facilitated the rebellion against Spain. Another frequent purpose has been to defend against the imperial ambition of neighbours; for example, the Swiss confederation (against Habsburg ambition), the Soviet Union (against a potential Western threat which Lenin preferred to meet by seducing the non-Russian provinces rather than by conquering them, which he probably could not have done anyway), the Canadian confederation (against the threat of invasion from the United States, which had occurred thrice previously and seemed again potential at the end of its civil war), the Austrian commonwealth (as against the new – in 1900 – Pacific imperialism of Japan and Germany), etc. Still a third military purpose has been to absorb neighbours in order to prepare for aggressive expansion. Thus Yugoslavia became a federation to further Tito's plans for a middle European empire (but Stalin beat him to the draw). And a fourth military purpose is to absorb neighbours, with less cost than conquest, mollifying them with the appearance of continuing sovereignty. The Delian league of the Athenian empire is an ancient example. Dual monarchies also have this character: the Austro-Hungarian empire in the nineteenth century and perhaps even Britain in the eighteenth. Surely the first German empire, which absorbed Bavaria and Wurttemberg after 1871, is a clear-cut example. And the Indian federation of today proved an excellent way to absorb the princely states. The Malay federation, turned Malaysia, absorbed Singapore and Brunei and the Nigerian federation enabled the North to subdue the East. Of course, many cases fall in two categories. India seems best placed in the fourth category, but it could just as easily fit in the second (in the sense of defending against Pakistan) and Malaysia surely also was defending against an aggressive Indonesia.

This outline of categories of military rationales for federation, within which I have included most well-known federations, makes it clear that, at their initiation they all had some military purpose. This observation is strengthened by considering the instances of federations that didn't work; i.e., that were abandoned within a few years, returning to independent states or becoming fully unitary. These failures reflected the lack of any military purpose, defective structures (e.g., one large and dominant unit, as in the USSR or the short-lived Egyptian–Syrian federation or very few units as in New Zealand) or both.

Many of these failed federations were initially established by the British government, which also established some successful ones. After observing the success of the United

States, the first federation formed from previous British colonies, and after successfully acquiescing in Canada and Australia, the British government repeatedly urged its newly independent or about-to-be independent colonies to federate. Many did so. Canada, Australia and India remain federations. But New Zealand, South Africa, Pakistan, the West Indies and Rhodesia-Nyasaland all abandoned the federal form. Nigeria is an equivocal case: it has been a federation for two brief periods, otherwise a centralized dictatorship. Two of these governments (Pakistan and Nigeria) had very defective structures (i.e., very few units and one dominant unit) and found they needed a unitary form for civil war. With geographically separated parts, Pakistan broke up into two non-federated independent states. Nigeria, with only three states, had a defective structure, revealed when one unit rebelled and civil war ensued. When again a federation, Nigeria restructured into twenty-one states, though this did not prevent the re-establishment of dictatorship.

The other failed ex-British federations abandoned federalism because there was simply no military reason for them to be federal. There were no enemies on the scene and hence they did not need to worry about maintaining internal order. Non-British federations that were born dead displayed the same range of reasons for failure: the French-sponsored Mali federation in West Africa had no military rationale and hence collapsed into unitary governments; the Javanese immediately rejected the Dutch-sponsored Indonesian federation, thinking it a Dutch trick and preferring to integrate by conquest; and several Spanish American federations collapsed as militarily unnecessary. In general, the history of failed federations implies about the same point as the history of successful ones: initially, there must be a compelling reason to aggregate resources and this compulsion is invariably military, though sometimes framers prefer imperial to federal institutions to solve the military problems at, perhaps, less cost.

As the previous paragraphs indicate, federations have appeared ever since ancient times: in ancient Greece (and some say in ancient Israel), in medieval Europe (the Swiss, Suabian and north Italian leagues), and in early modern Europe (the Dutch republic). But federalism began to flourish in the nineteenth century with imperial Germany as well as with the spin-offs of Spanish, Portuguese and British empires. The pace accelerated in the twentieth century with the break-up of empires, bringing new African, Asian and European federations.

What accounts for this burst of federalism? One step is the invention of centralized federalism in the United States in the late eighteenth century. The other is the collapse of empires. The invention provided a viable organization that turned out to be useful in partially reassembling the debris of empire. Imperial administrators organize political units appropriate for their purposes and these are typically too small to be militarily effective by themselves. But a centralized federation can aggregate resources and, given its invention and availability, framers of constitutions for ex-imperial units used it frequently. Of course, not all the contemporary federations derive from collapsed empires, but even those that do not have adopted the centralized form. Switzerland reorganized in 1848 and Germany and Austria after the First and Second World Wars on the centralized model. The Soviet Union and Yugoslavia – if their claims to be federations are justifiable – would probably never have adopted a federal structure if the centralized form had not been available. Recent 'federalizing' movements (e.g. Belgium) would probably make no headway without the centralized model. So the invention of

centralized federalism is crucial to the contemporary use and approval of federalism and thus therefore deserves explanation.

When the thirteen colonies that formed the United States rebelled against Britain, they initially formed a loose, peripheralized federation. Though the main organ (that is, the Continental Congress) of what became this federation did declare independence (1776), send ambassadors, organize an army and borrow money, it was kept on a tight rein by the new state governments which, as it turned out, really controlled taxes and military resources. A peripheralized constitution, the Articles of Confederation, adopted in 1781, embodied the principles of state control so that decisions on national policy were really made in the state capitals. Nationalist leaders, who in fact controlled the federal government from 1781 onwards, were deeply discontented with this state of affairs. They tried several times to amend the Articles modestly, but failed because of the unanimity requirement characteristic of peripheralized federations. Then in a bold move they attempted a complete revision of the constitution, based on a proposal by James Madison for a wholly national government, entirely uninfluenced by the states and fully in control of them. This would have been a government as unitary as any in the world. Madison's proposal was revised to give the states unique functions and an independent juristic identity and also a role in supplying national officials. Thus, by way of a compromise between nationalists and provincials, these nationalists created a new kind of centralized federation, one with almost the governing strength of a unitary government, but also with unique functions and perpetual guarantees for the constituent units. It was this combination of features that rendered centralized federalism so popular in succeeding centuries.

The foregoing discussion suggests that people have welcomed federalism for purely instrumental reasons. In fact, however, many political philosophers have justified the federal form on moral grounds: that it promotes liberty by allowing freedom of action for small groups or units, or, more generally, that it limits big government and thus promotes individual freedom.

There is no question that federalism restricts the ability of the central government to prescribe public policy. The constitution prohibits central government action in functions reserved for the constituent units. Indeed, when the central government ignores these prohibitions, as, for example, in the Soviet Union from a few months after its establishment to its dissolution in 1991, then federalism is itself destroyed. A dictatorship really cannot be a federation. When the central government denies omnipotence and guarantees constituent governments unique functions, then groups that lose nationally have a chance to win locally. With such compensation for national losers, the society as a whole is not zero-sum. In that sense, federalism really does promote individual freedom.

It is possible, however, to exaggerate the freedom-generating effects of federalism. While the foregoing argument is valid in general, nevertheless local freedom of action may not in fact generate true liberty. The United States offers a perverse example. In 1787 one of the constitutional compromises provided that states govern slavery. After a generation, however, the northern, slave-free, more populous region deeply regretted that concession. In the southern, slaveholding, less populous region, federalism came to mean protection of slaveholders' property rights and the absence of freedom for the black-skinned slaves. As a bare majority, the northern region lacked the two-thirds and

three-fourths majority for constitutional amendments. Therefore, the only feasible method of eliminating slavery was the civil war from 1861 to 1865. While that war did end slavery, it still left such matters as voting rights in the local jurisdictions. Within a generation after the civil war, southern states had again repressed the former slaves. Again federalism, the supposed protection of minorities, worked out as a device for condoning repression. Only in 1954–65 did the north become sufficiently populous and sympathetic to eliminate that second repression. Thus for well over half its history federalism in the United States actually meant freedom for some southern whites to oppress blacks, hardly the conventional picture of federalism as freedom. Fortunately, in the recent generation, however, federalism in the United States has served as an addition to the separation of powers and has thus, on the whole, served liberty. Taking together all federations in the world at all times, I believe that federalism has been a significant force for limited government and hence for personal freedom.

Owing to the success of federalism both as an instrument to aggregate resources and as a protection for liberty, many political idealists today hope to adopt it to new circumstances, such as a federal world or a federal Europe. If the description in this article of the origin of federations is even remotely correct, a federal world is a chimera. There must be a reason to aggregate resources, some external (or internal) enemy or object of aggression, or else no one would be willing to give up independence for aggregation. But a federal world precludes an enemy or an opportunity for attack and hence also precludes a reason for aggregation. A federal Europe is a more complicated case. So long as the United States and the Soviet Union continued the Cold War, there was reason for Europe to extricate itself from that conflict by federating. Now (1991) the threat has eased, Western Europe need not fear invasion from the East and it is not clear what can be gained by federation, except perhaps a European autarchy that shuts out Asiatic and American trade goods from the European market. This is, however, a perverse goal more harmful to Europeans than anyone else. It is difficult to imagine a long-term self-flagellation by federating. Consequently, it seems to me that the future of a united Europe is as chimerical as a united world. In any event, the success or failure of the move to federalize Europe will be a good test of the validity of this argument about the nature of federalism.

Further reading

Davis, S. R.: *The Federal Principle: A Journey Through Time in Quest of a Meaning* (Berkeley, Calif.: University of California Press, 1978).

Dye, T. R.: *American Federalism: Competition among Governments* (Lexington, Mass.: Lexington Books, 1990).

Elazar, D. J.: *The American Partnership* (Chicago, Ill.: University of Chicago Press, 1962).

Riker, W. H.: *Federalism: Origin, Operation, Significance* (Boston, Mass.: Little Brown, 1964).

—: 'Federalism', in *Handbook of Political Science*, ed. F. I. Greenstein and N. W. Polsby, vol. 5, *Governmental Institutions and Processes* (Reading, Mass.: Addison-Wesley, 1975), pp. 93–172.

Wheare, K. D.: *Federal Government*, 3rd edn (London: Oxford University Press, 1956).

Federalism Updated

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Federalism has received much recent philosophical attention, partly due to its prospects for populations divided by ethnic or cultural cleavages yet who seek a common political order, in Australia, Canada (Taylor, 1993; Kymlicka, 2001) and Europe (Sbragia, 1992; Olsen, 2005; Føllesdal, 2005).

Prominent defences of federations draw on 'organic' conceptions of political or social order to promote individual flourishing; or to secure local autonomy, co-operation, peace, justice, human rights, economic prosperity or other values within, among or beyond the constituent subunits. Measures may include immunity, monitoring, legislation, enforcement or transfers of funds. Such arguments have been offered by otherwise divergent authors as Althusius (1603), Catholic popes (Pope Leo XIII, 1891; Pope Pius XI, 1931) and Proudhoun (1863).

A 'principle of subsidiarity' that favours subunits is often used to allocate authority between subunits and centre, in ways that raise problems of justification, interpretation and application, with implications for which units are included, the goals to be achieved, and regarding who has the authority to apply it. Subsidiarity has received renewed attention within the European Union where it was introduced with limited success to quell fears of centralization (Burgess and Gagnon, 1993; Føllesdal, 1998). This version holds that authority should rest with the lower-level subunits unless allocating them to a higher-level central unit brings higher efficiency or effectiveness in achieving certain common goals specified by treaty.

Citizens of federations must be members of two stable commonwealths – the subunit and the federation as a whole – that must be coherent, durable and legitimate. Several challenges merit philosophical attention.

Consider trade-offs between local autonomy and inequalities within two different kinds of federations (Stepan, 1999). In 'coming together' federations such as the present USA, Switzerland and Australia, independent states cede or pool powers in certain domains for otherwise unattainable goals such as security or economic prosperity. Here the formerly sovereign subunits typically constrain central powers. In contrast, a 'holding together' federation (India, Belgium, Canada, Spain) emerges from a single unitary state to avoid deep conflict or secession. These federations have more powerful centres, with subunit autonomy over contested issues of language or culture, sometimes distributed asymmetrically.

When compared to unitary states, 'coming together' federations in the OECD (Organization for Economic Cooperation and Development) tend to have higher child poverty rates in single-mother households, and a higher percentage of poor elderly. Linz and Stepan (2000) explain these inequalities by the 'demos constraining' arrangements protecting subunits from central authorities, combined with a weak party system. In contrast, the German Constitution (not a 'coming together' federation) explicitly requires equalization of living conditions among the subunits (Art. 72.2). Thus a central normative issue is the legitimate distributive impact of shared

institutions or a shared culture among citizens within and among subunits that once were historically sovereign states (Føllesdal, 2001).

Federal subunits may enjoy veto rights and disproportionate voting weights. These violations of unrestricted majority rule and principles of political equality raise fundamental questions about the normative significance of subunits.

Federal political arrangements also pose special challenges concerning stability and trust, due both to their origin in conflicts and because of their twofold risk of secession or centralization. They are often sites of high levels of 'constitutional politics' about subunit autonomy, common objectives and threats of fragmentation. Some argue that democratic, interlocking federations alleviate such tendencies. Institutional designs that promote overarching political parties can also foster citizens' 'overarching loyalty' to the federation as whole (Franck, 1968; Linz, 1997; Stepan, 2000; Simeon and Conway, 2001; Filippov et al., 2004). An important philosophical issue is the permissible role of 'communitarian' features such as shared history, practices, culture or ethnicity within subunits in building and maintaining dual political allegiances (Norman, 1995; Tully, 1995; Habermas, 1996, p. 500; Choudhry, 2001; Kymlicka, 2001).

References

Althusius, J.: *Politica Methodice Digesta* (1603) (Indianapolis, Ind.: Liberty Press, 1995).

Burgess, M. and Gagnon, A.-G., eds: *Comparative Federalism and Federation* (London: Harvester Wheatsheaf, 1993).

Choudhry, S.: 'Citizenship and federations: some preliminary reflections', in *The Federal Vision: Legitimacy and Levels of Governance in the US and the EU*, ed. K. Nicolaidis and R. Howse (Oxford: Oxford University Press, 2001), pp. 377–402.

Filippov, M., Ordeshook, P. C. and Shvetsova, O.: *Designing Federalism: A Theory of Self-sustainable Federal Institutions* (Cambridge: Cambridge University Press, 2004).

Føllesdal, A.: 'Subsidiarity', *Journal of Political Philosophy*, 6, 2 (1998), 231–59.

—: 'Federal inequality among equals: a contractualist defense', *Metaphilosophy*, (2001), 236–55.

—: 'Towards a stable finalité with federal features? The balancing acts of the Constitutional Treaty for Europe', *Journal of European Public Policy*, 12 (June 2005), 572–89.

Franck, T., ed.: *Why Federations Fail* (New York: New York University Press, 1968).

Habermas, J.: *Faktisität und Geltung* (Frankfurt am Main: Suhrkamp, 1992); *Between Facts and Norms* (Oxford: Polity, 1996).

Kymlicka, W.: *Politics in the Vernacular* (Oxford: Oxford University Press, 2001).

Leo XIII: 'Rerum Novarum', in *The Papal Encyclicals, 1903–1939* (Raleigh: McGrath, 1891).

Linz, J.: 'Democracy, multinationalism and federalism', in *Demokratie in Ost und West*, ed. W. Merkel and A. Busch (Frankfurt am Main: Suhrkamp, 1997), pp. 382–401.

Linz, J. and Stepan, A.: 'Inequality inducing and inequality reducing federalism', Paper at IPSA Conference, Quebec, 2000.

Norman, W. J.: 'The ideology of shared values: a myopic vision of unity in the multi-nation state', in *Is Quebec Nationalism Just?*, ed. J. Carens (Montreal: McGill-Queens University Press, 1995), pp. 137–59.

Olsen, J. P.: 'Unity, diversity and democratic institutions: lessons from the European Union', *Journal of Political Philosophy*, 13 (2005), 461–95.

Pius XI: 'Quadragesimo Anno', in *The Papal Encyclicals, 1903–1939* (Raleigh: McGrath, 1931).
Proudhon, P. J.: *Du Principe Federatif* (1863) *The Principle of Federation*, ed. and trans. R. Vernon (Toronto: University of Toronto Press; 1979).
Sbragia, A.: 'Thinking about the European future', in *Euro-Politics: Institutions and Policymaking in the 'New' European Community* (Washington, DC: The Brookings Institution, 1992), pp. 257–90.
Simeon, R. and Conway, D.-P.: 'Federalism and the management of conflict in multinational societies', in *Multinational Democracies*, ed. A.-G. Gagnon and J. Tully (Cambridge: Cambridge University Press, 2001), pp. 338–65.
Stepan, A.: 'Federalism and democracy: beyond the U.S. model', *Journal of Democracy*, 10 (1999), 19–34.
—: *Arguing Comparative Politics* (Oxford: Oxford University Press, 2000).
Taylor, C.: *Reconciling the Solitudes: Essays on Canadian Federalism and Nationalism* (Montreal: McGill-Queen's Press, 1993).
Tully, J.: *Strange Multiplicity: Constitutionalism in an Age of Diversity* (Cambridge: Cambridge University Press, 1995.

Further reading

Beer, S.: *To Make a Nation: The Rediscovery of American Federalism* (Cambridge, Mass.: Harvard University Press, 1993).
Dahl, R.: 'Federalism and the democratic process', in *Liberal Democracy*, ed. J. R. Pennock and J. W. Chapman (New York: New York University Press, 1983), pp. 95–108.
Føllesdal, A.: 'Federalism', in *Stanford Encyclopedia of Philosophy*, ed. E. Zalta http://plato.stanford.edu/entries/federalism/.
Karmis, D. and Norman, W., eds: *Theories of Federalism* (New York: Palgrave, 2003).
King, P.: *Federalism and Federation* (Baltimore, Md.: Johns Hopkins University Press, 1982).
Lijphart, A.: *Patterns of Democracy* (New Haven, Conn.: Yale University Press, 1999).
Oates, W.: *Fiscal Federalism* (New York: Harcourt Brace Jovanovich, 1972).
Ostrom, V.: *The Meaning of American Federalism: Constituting a Self-governing Society* (San Francisco, Calif.: ICS Press, 1991).
Publius: The Journal of Federalism regularly publishes philosophical articles.
Tushnet, M., ed.: *Comparative Constitutional Federalism: Europe and America* (New York: Greenwood Press, 1990).
Wheare, K.: *Federal Government* (Oxford: Oxford University Press, 1964).

Chapter 33

Historical Justice

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Should people make demands for justice relating to events occurring in the past, even the distant past? What does and what should happen when they do? These questions frame the problems of historical justice that became especially palpable during the twentieth and early twenty-first centuries and contributed to innovations in the design and use of tribunals, truth commissions and reparations initiatives. These responses to calls for historical justice deal with objections and difficulties in their own ways. Objections to such innovations include charges that they depart too radically from established legal forms, that they reopen old wounds, that they inevitably rely on stale and partial evidence, that their costs are excessive or divert resources from more pressing needs, and that they do little to prevent future atrocities or to heal social rifts.

Prominent examples of institutions addressing historical justice include the International Military Tribunal at Nuremberg, trying major war criminals in Germany after the Second World War, the South African Truth and Reconciliation Commission, following the end of apartheid, and the Waikato Raupatu Claims Settlement Act 1995 in New Zealand, responding to the 1863 government invasion of land held by the Waikato-Tainui people and the subsequent confiscation of 1.2 million acres of the tribe's land with financial compensation, return of the land and an apology. These and other examples in turn inspire new claims for similar responses in other circumstances and stimulate further objections, continuing institutional innovations and debates in political and legal contexts.

Why Have Claims to Remedy Historical Injustices Emerged?

It might be argued that a civilization advances when what was once perceived as a misfortune becomes understood as an injustice. For it is then that a particular kind of suffering is condemned as intolerable and subject to human choice and control. Framing responses to historical injustice in specifically legal terms reflects the self-conscious commitment to the rule of law and hopes of breaking cycles of violence and revenge. Thus, the Allied powers after the Second World War could have summarily executed political, military and corporate leaders of Germany and Japan after defeating them militarily, but instead established International Military Tribunals in Nuremberg and

in Tokyo. With initial trials of major figures in the war, the tribunals followed the form of the adversarial criminal justice model; Franklin Roosevelt, Winston Churchill and Joseph Stalin sought to contrast their nations' devotion to law and to advance an international body of rules to promote peace and human rights, replacing war and military force with legal institutions.

The turn to redress historical injustice increasingly accompanies changes in regime. The South African Truth and Reconciliation Commission emerged after the negotiated transition of power marking the end of the apartheid government. The multi-party negotiating forum and last apartheid parliament adopted the Interim Constitution of 1993 that called for mechanisms for granting amnesty for conduct associated with political objectives in the past conflicts, and the parliament in turn established a commission that included committees to hear testimony about human rights violations, another committee to hear applications for amnesty, and a third committee to consider reparations. Truth commissions following mass atrocities accompanied transitions to new regimes in Argentina, Chile, Guatemala, El Salvador, Uganda, East Timor, Burundi and East Germany (Braham, 2004). Many truth commissions are designed to establish and acknowledge the truth about certain violations while also promoting reconciliation within the nation. Rather than an adversarial process, a truth commission can collect statements by victims who were themselves on different sides of a particular conflict. Some truth commissions hew closer to legal definitions of crimes and human rights violations. Some 'name names' of offenders while others do not and produce more general descriptions of the underlying events. Those nations that create truth commissions without a time limit or with no duty to produce a public final report do little to benefit the cause of historical justice.

After his surprise election in 1983, President Raul Alfonsin of Argentina proceeded with prosecutions of key figures in the 'dirty war' of the 1976–83 military regime. Pursuing redress for historical injustice, new regimes symbolically establish a break with the past while vividly demonstrating the shift in power from those who committed or condoned atrocities to those who condemn them. In contrast, the obstacles created by the present Cambodian government to criminal trials of former leaders of the Khmer Rouge, associated with the deaths of two million people by torture, execution and starvation, are widely perceived as a refusal to condemn the past, even after the Cambodian government and the United Nations negotiated a draft agreement for an international criminal tribunal (with a majority of Cambodian judges), twenty-four years after the Khmer Rouge was ousted from power (Anon., 2005).

The growing presence of international law in the responses to historical injustice includes independent and collaborative efforts by the United Nations to pursue rights to redress for human rights violations. A range of international instruments, including Article 8 of the Universal Declaration of Human Rights, Article 6 of the International Convention on the Elimination of All Forms of Racial Discrimination, and Article 14(1) of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment, call for conducting an independent and impartial investigation of human rights, prosecuting offenders and compensating victims.

Sometimes such retrospective action works as a substitute, or penance, for failure to intervene to halt mass atrocity. Thus, after the international community proved unable and unwilling to intervene militarily in the violence and 'ethnic cleansing' in the former

Yugoslavia during the early 1990s, the United Nations relied on a generous interpretation of the UN's authority to respond to threats of international peace and security and established an International Criminal Tribunal for the former Yugoslavia (ICTY) in 1993. Given limited powers and necessarily relying on NATO to arrest suspects, the tribunal initially had only a few cases involving low-level actors in the conflicts, but when the Serbian regime changed and turned Slobodan Milosevic over for trial, the central actor in the atrocities became the focus for what became the longest-running international criminal trial; the prosecution presented 114 witnesses and written testimony from 240 others over three years, while Milosevic rejected defence counsel and chose to represent himself until his death.

The very existence of the ICTY provided a precedent and goal for the UN Security Council's creation of a second *ad hoc* tribunal, this time for Rwanda. Indeed, failure to create a comparable tribunal in the face of the mass murders of 800,000 Rwandan people – largely those identified as Tutsis – during 1994 would have appeared a blatant parochial or biased concern with Europe rather than Africa. In addition, the justice system within Rwanda was so devastated that an international response seemed the only possible legal recourse. Yet the new Tutsi-led Rwandan government quickly arrested some 115,000 people in anticipation of domestic trials following the genocide. Hence, both international and domestic processes unfolded to respond to the Rwandan genocide, and the domestic processes came to include not only trials but also a newly invented use of traditional *gacaca*, informal community hearings.

Despite slow progress, cumbersome procedures and uncertainty about their effectiveness, the *ad hoc* international criminal tribunals no doubt helped to generate support in many nations for reviving plans for a permanent International Criminal Court (ICC). In 1998, 120 of the world's nations – but not the United States – voted to create such a court. Designed to have jurisdiction over genocide, crimes against humanity, war crimes, and the crime of aggression, the ICC is also meant to work co-operatively, and not displace, domestic justice systems (Slaughter, 1999, p. 1). The court took effect in 2003, with many more than the requisite sixty nations signing and ratifying the statute of authorization (ibid., pp. 7–8). By 2006, 100 nations had joined in – but still not the United States. Issuing its first arrest warrants for five senior leaders of the Lord's Resistance Army (LRA) with charges of Crimes against Humanity and War Crimes committed in Uganda since July 2002, the ICC also formally and informally encouraged member nations to pursue justice domestically as the way to avoid ICC action.

This deference to member nations is expressed in the authorizing Rome Treaty as the 'complementarity provision'. Jurisdiction in the ICC according to this provision is intended to complement jurisdiction in the affected nation, and therefore the ICC cannot proceed unless the domestic nation is unwilling or unable to proceed with its own investigation and prosecution. Independent of the United Nations, the ICC is the product of the multilateral treaty of its signatory states. Cases can come before the ICC at the initiative of a state party, of the prosecutor or the United Nations Security Council. The court may well become involved in ongoing conflicts, not only past instances of genocide, crimes against humanity and war crimes. At a later date, if the member states agree to a definition of crimes of aggression, the court will also have jurisdiction over those offences. The court is intended to end impunity – the avoidance of responsibility

– by those who commit the most serious crimes of concern to the international community.

Ending impunity may require more avenues than the nation most affected or the single tribunal established for the world. Under developing ideas of universal jurisdiction, any nation could provide a forum for serious violations of human rights that have occurred elsewhere. Thus, a judge in Spain charged Augusto Pinochet, Chile's notorious dictator, with genocide, terrorism and torture in Chile twenty years earlier; Scotland Yard detectives arrested him in London and the British House of Lords approved his extradition to Spain. In the United States, civil jurisdiction under the Alien Tort Claim Act has led to proceedings and judgements against individuals for torture and human rights violations committed in other countries against citizens of those countries. These innovative uses of law transcend national boundaries and engage courts in complex historical investigations.

Apart from these institutional innovations at the international and national levels, redress for historical injustice may be sought upon the discovery of new evidence. For example, in 1981 a United States legal scholar, Peter Irons, uncovered evidence that the Department of Justice had lied before the Supreme Court before it rejected Fred Korematsu's challenge to the internment of himself and more than 100,000 Japanese and Japanese-American citizens in the United States during the Second World War. Irons brought the information to Korematsu, who reopened the case and won an order erasing his prior conviction for disobeying the internment order in 1983. That same year, the US Congress authorized a commission to investigate the internment, and its report attributed the internment to racial prejudice, war hysteria and failed political leadership, and also exposed the humiliating circumstances of the internment camps. The report recommended legislative reparations, and the US Congress enacted the Civil Liberties Act of 1988, providing a governmental apology for the internment and $20,000 in reparations for each surviving individual. President Clinton awarded Korematsu the Presidential Medal of Freedom in 1998.

Reparations have roots in restorative justice and also growing recognition in international law. For example, the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power calls for restitution to victims either through the return of property or payments recognizing harms and services needed by victims. Reparations may be pursued through legislation or executive decision making; through commissions of enquiry; through negotiations with private actors such as corporations that participated in gross injustices; and they may seek to repair damage, award victims the means for rehabilitation, or compensation for economic loss. Reparations may also perform a symbolic function of acknowledging past injustice and setting a marker between the past and the present.

Thus, remedies for historical injustice may be sought through reparations, following governmental or private investigation and decision making or through a commission of enquiry intended to give victims and survivors a forum and chance to build a public record. Historical justice may be pursued through criminal prosecutions conducted at an international level through an *ad hoc* tribunal or the International Criminal Court. Prosecutions may proceed domestically within the nation where the harms occurred, or a hybrid prosecution at a forum created for the purpose and combining domestic and international participants. Or another nation may exercise universal jurisdiction and

offer a criminal or civil forum for investigating and seeking to remedy past incidents of torture, appropriation, genocide or other violations in another country. The initiatives may assist a nation's transition from one political regime to another, and in particular, from a tyrannous regime to one committed to democracy and human rights. Then, the effort may be called an aspect of 'transitional justice', using mechanisms of legal redress to assist a political transition and shift to a regime that pursues justice.

Objections to Historical Justice Claims

Whether proceeding through courts or legislatures, commissions of enquiry or negotiations, domestically or internationally, efforts to remedy historical patterns of injustice run up against sharp objections such as these: (1) prosecution for crimes committed decades ago will 'reopen old wounds' and generate new conflicts; (2) the evidence will be stale or partial and expose conflicts among rival versions of the past and the incompatible projects of adjudication, professional history writing, and nation building through the creation and revision of national narratives; (3) the costs of justice-seeking initiatives can be enormous both in terms of time and money, and the diversion of resources to these purposes deprives other vital initiatives such as strengthening a justice system for present-day adjudication, building housing and providing healthcare, or redistributing economic resources on the basis of need rather than claims arising from a distant past; and (4) there is limited if any evidence that projects pursuing historical justice pay off in terms of preventing or deterring future atrocities or promoting community reconciliation and healing for individual victims.

Concerns about 'opening old wounds' could reflect desires to guard against uncomfortable issues for those who have not borne the weight of the injustice; those most victimized seldom raise this concern. Fear of inter-group conflict, especially in a new and unstable regime, may produce another version of this objection. However, will suppressing claims for redressing past injustice strengthen trust and promote stability or instead preserve resentments and distrust? Perhaps attention to past injustice can start the process of healing wounds that have festered. Even public debate over whether to proceed with prosecutions, civil suits, truth commissions or reparations can bring into the open secrets about the past and afford opportunities for people to explain their suffering and tell their memories.

Evidence of past wrongs may be partial and difficult to assess: witnesses die, memory becomes foggy, documents disappear. Yet it is striking that these difficulties do not stand in the way, in most legal systems, of prosecutions for murder, however long ago it occurred, or for genocide or crimes against humanity. 'Moral duties have no term', said former British Foreign Secretary Lord David Owen (1995), quoting Nazi hunter Simon Wiesenthal (1989). History suggests that experiences of injustice unremedied can ignite violent conflict in the future or contribute to the aching destruction of human dignity. Yet simply adopting the forms of law, such as a trial or a hearing, does not prevent new rounds of political conflict or even vengeance disguised in legal forms such as show trials and executions. Rather then remedying historical injustice, such events can produce miscarriages of justice or take part in a continuing vendetta among groups in shifting roles of relative power. Some have laid such charges against the

domestic Rwandan criminal trials and against the ICTY trial of Milosevic; others question whether the criminal trial of Saddam Hussein is a show trial with the United States pulling the strings.

Assessments

It is no doubt still too soon to assess the impact of the international tribunals, truth commissions and reparations initiatives of the late twentieth and early twenty-first centuries. Initial empirical study suggests that the Truth and Reconciliation Commission (TRC) in South Africa contributed to reconciliation, in that those who are more accepting of the TRC's presentation of the past are more likely to express reconciliation across lines of group difference (Gibson, 2004; see also Stover and Weinstein, 2004). Emerging evidence suggests that trials are not themselves critical to people's sense of justice after atrocity; for some individuals, specific information about what happened to their family members or what was the identity of the person in the paramilitary who raped their sister may be most important to a sense that justice was done, and even more important than convictions or even prosecutions of those who directed or fomented the atrocities (Stover and Weinstein, 2004).

Sixty years after the trials following the Second World War, they have come to be viewed as a greater success than many predicted when they took place, although questions about them remain. Did the Nuremberg trials impose liability for crimes that had not previously been defined? Did they amount to a form of 'victors' justice' insofar as they pursued violations committed only by the defeated countries, and no violations committed by the Allied nations? Did the procedures and the punishments at work in the Tokyo trials fall short of the standards at the Nuremberg trials? Even though such questions recur, the accomplishments of these trials that is least in dispute are their preservation of the historical record for continuing study, their public acknowledgement and condemnation of grave wrongs, and their commitment to hold individuals responsible for atrocities – creating a large precedent for redressing historical injustices.

References

Anon.: 'Khmer tribunal stalled again', *Bangkok Post* (22 August 2005). Available at: http://www.globalpolicy.org/intljustice/tribunals/

Braham, E.: 'Truth commissions', in *Beyond Intractability*. Available at: http://www.beyondintractability.org/m/truth_commissions.jsp

Czitrom, C. G.: 'Executive summary', in *Truth Commissions: An Uncertain Path?*, ed. V. E. Cuevas, M. L. O. Rojas, P. R. Baeza et al. (Geneva and Santiago, Chile: Association for the Prevention of Torture and the Corporación do Promoción y Associon for the Prevention Defensa de los Derechos del Pueblo, 2002). Available at: www.apt.ch/americas/mexico/Executive%20Summary.pdf

Gibson, J. L.: *Overcoming Apartheid: Can Truth Reconcile a Nation?* (New York: Russell Sage Foundation, 2004).

Owen, Lord D.: 'Reconciliation: applying historical lessons to modern conflicts', *Fordham International Law Journal*, 19 (1995), 324–6.

Slaughter, A.-M.: 'Memorandum to the President', in *Toward an International Criminal Court, Three Options Presented as Presidential Speeches*, ed. A. Fry (New York: Council on Foreign Relations, 1999).
Stover, E. and Weinstein, H. M., eds: *My Neighbor, My Enemy: Justice and Community in the Aftermath of Mass Atrocity* (Cambridge: Cambridge University Press, 2004).
Wiesenthal, S.: *Justice Not Vengeance* (New York: Grove, 1989).

Further reading

Elster, J.: *Closing the Books* (Cambridge: Cambridge University Press, 2004).
Hayner, P. B.: 'Fifteen truth commissions – 1974 to 1994: a comparative study', *Human Rights Quarterly*, 16 (1994), 597–655.
Hayner, P. B.: *Unspeakable Truths* (New York: Routlege, 2001).
Kiss, E.: 'Saying we're sorry: liberal democracy and the rhetoric of collective identity', *Constellations*, 4 (1998), 387–98.
Minow, M.: *Between Vengeance and Forgiveness: Facing History after Genocide and Mass Violence* (Boston, Mass.: Beacon Press, 1998).
Nino, C. S.: *Radical Evil on Trial* (New Haven, Conn.: Yale University Press, 1996).
Popkin, M. L. and Roht-Arriaza, N.: 'Truth as justice: investigatory commissions in Latin America', *Law & Social Inquiry*, 20 (1995), 79–117.
Prager, C. A. L. and Grovier, T., eds: *Dilemmas of Reconciliation: Cases and Concepts* (Waterlook, Canada: Wilfrid Laurier University Press, 2003).
Rotberg, R. I. and Thompson, D., eds: *Truth v. Justice: The Morality of Truth Commissions* (Princeton, NJ: Princeton University Press, 2000).
Stinchcombe, A. L.: 'Lustration as a problem of the social basis of constitutionalism', *Law & Social Inquiry*, 20 (1995), 245–76.
Teitel, R. G.: *Transitional Justice* (New York: Oxford University Press, 2000).
Tepperman, J. D.: 'Truth and consequences', *Foreign Affairs*, 81 (2002), 128–45.
Waldron, J.: 'Superseding historical injustice', *Ethics*, 103 (1992), 4–28.

Chapter 34

Human Rights

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The settlement of the Second World War yielded two important changes in the normative order of international relations. These are the prohibition of war except in self-defence, expressed in the UN Charter (1946), and the limitation of sovereignty by a common set of protections of individuals, expressed in the Universal Declaration of Human Rights (UDHR) (1948). Looked at in historical perspective, these innovations are two dimensions of a single movement – a collective effort at the global level to impose discipline on the external and internal behaviour of states. Neither innovation lacks ambition, but of the two, the more far-reaching is certainly the doctrine of human rights. It aims to bring the domestic conduct of governments under agreed international norms – to define and establish 'a common standard of achievement for all peoples and all nations' (UDHR, Preamble) to which the organized international community can hold individual governments accountable.

The Practice of Human Rights

Neither the idea of a common standard nor that of international action to enforce it were really new. These ideas have long histories dating at least to the Peace of Westphalia (1648), which incorporated both in its provisions protecting religious minorities in the German principalities. What is new is the idea of an international practice devoted to the protection and advancement of human rights – a standing capacity to articulate norms, monitor compliance and bring international attention to bear on violations and backsliding. This idea was born with the Universal Declaration and worked out in negotiations leading to a half-dozen major international human rights treaties adopted and ratified by most of the world's states between the 1960s and 1990 (most easily found in Brownlie, 2002). The idea has been elaborated, mostly since the end of the Cold War, in the foreign policies of individual states and the operations of various international political, financial and development agencies and in the work of a diverse assortment of non-governmental organizations (NGOs). Today there is a complex global practice devoted to the advancement and support of human rights.

Two features of this are particularly striking. The first is its wide normative scope. The Declaration and the major treaties specify conditions for the political institutions

and policies of states that bear on almost every major dimension of state action. They include certain core rights of the person – for example, to life, liberty and security, and against arbitrary imprisonment, slavery and torture, as well as the more complex right against genocide. There are also the rights associated with the rule of law (e.g., the right to a fair trial), political rights ('to take part in the government of the country' and to 'periodic and genuine elections'), economic rights (free choice of employment, an adequate standard of living, healthcare) and rights of communities (self-determination). This catalogue has been extended and made more specific in the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) – which contains the remarkable requirement that states take steps to 'modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes' (CEDAW, Art. 5 (a)) – and the Convention on the Rights of the Child (CRC), which among other things requires that in all actions concerning children carried out by public and private agencies, 'the best interests of the child shall be a primary consideration' (CRC, Art. 3(1)).

The other striking feature is the ambiguous connection of human rights to international action. The post-war human rights movement was motivated in large measure by revulsion at the atrocities of the Nazi government. Human rights were conceived as standards whose violation by a government would be an international concern. There was, however, no agreement on provisions for enforcement (or 'implementation'). The international capacity to enforce human rights has evolved piecemeal and differently than the framers anticipated. The framers imagined an international agency that would monitor and report on human rights compliance by states, consult with governments whose performance was found deficient, and in extreme cases recommend remedial action to the political organs of the UN (Glendon, 2001, pp. 84ff.). A monitoring capacity did in fact develop, but with inadequate investigative resources and without authority to recommend remedial political action. What the framers did not anticipate was the important role that human rights have come to play as norms for the conduct of bilateral and multilateral relations and their function as organizing principles of transnational political action by NGOs and other actors in what is sometimes described as an embryonic global civil society.

The record of enforcement is, at best, mixed. Notwithstanding, there is no question today that the practice of human rights has grown increasingly complex both doctrinally and politically. This practice, although in various ways emergent and contested, is elaborate and engages the energy of many people and institutions. It would not be too much to say that human rights has become the dominant idiom of international normative discourse.

However, in contrast to its wide acceptance in the discourse of global politics, the language of human rights tends to be regarded with puzzlement by political philosophers. For one thing, human rights are supposed to be a species of 'right', but some of the provisions of the human rights treaties do not appear to be rights in any familiar sense. Relatedly, although the 1948 Declaration describes itself as 'universal', even a brief inspection of its contents evokes scepticism about its 'universality'. It is easy to see how human rights not to be tortured or enslaved might be considered to be 'universal', but it is not clear that the rights to 'change [one's] religion or belief' or to democratic

political institutions can be considered as 'universal' in the same way. Then there is a question about the proper degree of ambition for human rights doctrine. Many people think it obvious that human rights are best conceived as 'minimal' standards (Ignatieff, 2002, p. 56), but the set of rights found in international doctrine is not 'minimal' in any obvious sense. Finally, there is what we might call the problem of 'contribution'. Human rights are neither self-enforcing nor cost free. Yet the discourse of human rights is notoriously beneficiary oriented. International doctrine provides virtually no guidance for deciding which agents have responsibilities to act when someone's human rights are threatened or what level of cost prospective agents can reasonably be expected to bear.

These are all difficult questions and there is no philosophical consensus about the best ways to respond. There are not even very well-defined theoretical alternatives. In the rest of this chapter I shall focus on three leading areas of disagreement among theorists of human rights. These concern the nature of human rights, their scope or content, and their relation to the value of international toleration.

The Idea of a Human Right

Confronted with these puzzlements, one might think the first task is to get clear about the nature of human rights. What kind of object are they?

For many years it was common to respond that human rights are the kinds of things once conceived of as natural rights (see, e.g., Wasserstrom, 1964; Cranston, 1973). There is a sense, of course, in which modern thought about human rights is a beneficiary of the natural rights tradition. However, it is one thing to acknowledge a historical relationship between ideas and another to identify them. Leaving aside much that might be said about the historical ambiguity of natural rights, there are two difficulties in conceiving of human rights as natural rights. First, the framers of modern human rights were clear that they did not regard themselves as reproducing or adapting the doctrine of natural rights. They conceived of human rights as philosophically ecumenical, and of natural rights as just one among many moral–political doctrines which lent support to human rights. Human rights were 'practical conclusions which, although justified in different ways by different persons, are principles of action with a common ground of similarity for everyone' (Maritain, 1949, p. 9). Second, the human rights actually enumerated in international doctrine do not seem to occupy the same conceptual space as natural rights. The natural rights of the modern tradition were pre-institutional: they were rights people could be imagined to possess in a 'state of nature'. But few of the rights in contemporary doctrine can plausibly be conceived of as pre-institutional; most human rights are conditions that pertain to public policy, or to the institutions that make and carry it out. If human rights are natural rights, then some and perhaps many of the rights counted as 'human rights' in contemporary doctrine must be regarded as illegitimate pretenders. This is one route to a familiar kind of scepticism (found, for example, in Cranston, 1973) – though it should be said that not all such interpretations of human rights are sceptical (Griffin, 2000 is an important exception).

One might give up on the notion that human rights are natural rights yet still interpret them as some sort of fundamental moral right. It is not obvious how we should

understand the latter idea, but it seems safe to say that any such rights would have at least two characteristics. First, they would be distinct from legal and conventional rights and therefore be capable of serving as critical standards for the laws and customs of a society. Second, they would protect or advance interests that could be recognized as urgent or important in a wide range of possible human lives, either because people are likely to attach great weight to the satisfaction of these interests for their own sake or because their satisfaction is instrumentally important for the satisfaction of other urgent interests. Most of the human rights of international practice can be seen as satisfying these conditions and so, in this sense, can be interpreted as fundamental moral rights.

Fundamental rights, however, might also be supposed to have various further properties which are not always shared by international human rights. For example, fundamental rights have an imperative character: when validly claimed, they demand immediate satisfaction. And fundamental rights impose duties on all agents whose conduct affects the satisfaction of the right, not only on collective or group agents. Most international human rights lack at least one of these features. Consider, for example, human rights to work, to an adequate standard of living, and to periodic and genuine elections. Under some historical circumstances none of these rights would be susceptible to immediate satisfaction. There may be no agent or group of agents that control sufficient resources to fulfil the right's requirements. Or, the right may be satisfiable only by some ambitious change in institutions and policies likely to take time. The human rights of international doctrine sometimes seem to operate more as high-priority goals than as fundamental moral rights. (This led Joel Feinberg to suggest that human rights might be 'rights' only in an unusual 'manifesto sense': rather than obligating specific agents, they are claims 'against the world' or 'upon hypothetical future beings not yet in existence'; [Feinberg, 1967, p. 67].) Similarly, it is implausible to think that many of the rights in the documents impose duties directly on individuals. Often, they operate more like principles of social justice, establishing requirements that apply in the first instance to social institutions and their officials. If rights to an adequate standard of living or to periodic elections impose duties on individuals at all, these duties seem to be derivative of the more basic institutional requirements (Pogge, 2002, pp. 44–8). If one cleaves to the thought that human rights are fundamental moral rights, then, as before, the rights found in international doctrine that do not fit the model will appear to be illegitimate pretenders. Once again one finds oneself on the road to scepticism.

But perhaps scepticism can be avoided. Both of these interpretations of human rights seek to grasp their essential features by bringing them under a more familiar philosophical conception, one whose provenance is independent of the general form of the international practice in which the contemporary idea of a human right arises. In each case international human rights doctrine comes out wanting because its substantive contents cannot be fully accommodated under this conception. The conventional response is that the content of international doctrine should be trimmed back to what comports with the conception; otherwise, it might be said, human rights are incoherent. But another response is possible. One might ask by what authority the human rights of international practice should be interpreted in light of a received philosophical idea in the first place, particularly one that developed within a different normative

practice with different expectations and purposes. Why not regard the interpretation and the resulting scepticism about international doctrine as overreaching – a kind of philosophical dogmatism?

Anyone tempted by this line of criticism needs another way to interpret human rights. In order to avoid the threat of dogmatism, the alternative approach should not conceive of human rights as falling under the potentially distorting auspices of an imported philosophical conception. It should, instead, be pragmatic. It should begin with international human rights practice itself and try to construct an analysis of the idea of a human right by observing the inferences drawn from invocations of this idea by competent participants in this practice. If the best pragmatic analysis of the idea defies the boundaries of the various received philosophical conceptions that might be brought to bear, one might say: so much the worse for these conceptions. It is the practice we seek to understand.

A pragmatic analysis of international human rights points towards an ambitious empirical project and one can only speculate about its results. It seems likely that a pragmatic analysis would have at least three elements:

1 Human rights are requirements for institutions whose aim is to protect relatively urgent individual interests against various predictable dangers to which they are vulnerable under the general circumstances of social life in the modern world. The relativization to circumstances of modern life is one feature that distinguishes the human rights of international doctrine from the natural rights tradition. It is inescapable, if one takes seriously the content of international doctrine as we find it.
2 These standards apply in the first instance to the constitutions, laws and public policies of states. Each state is responsible for protecting the human rights of its citizens and others residing in its territory and each may exercise reasonable discretion in the means by which it carries out this responsibility.
3 Human rights are matters of international concern in a special sense: when a state defaults on its responsibility to protect the rights of those within its jurisdiction, the violations supply pro tanto reasons for appropriately placed external political agents to take action for purposes of prevention or remediation. Typically the actions for which human rights violations supply reasons involve some form of interference in the state where the violation takes place. But one must read 'interference' broadly, as embracing forms of political action ranging from consensual assistance to public criticism to coercive intervention. (For similar analyses see Sen, 2004; Nickel, 2006.)

This formulation is controversial in various ways of which one in particular should be underscored. This is the interpretation of 'international concern' in terms of pro tanto reasons for political action across boundaries. According to a view held, for example, by the government of China, human rights are exclusively a domestic affair: they are universal standards that everyone has reason to accept, but the responsibility for implementing them in a society belongs exclusively to its own government (Foot, 2000). Now there may be something to be said for the proposition that outside interference is usually a bad way to advance human rights (perhaps because it is difficult to control and likely to produce collateral harm). But if the question is about the nature

of human rights, the 'domestic responsibility' view is difficult to reconcile with existing practice, in which various kinds of political action across borders are taken to be justified in response to the failure of governments to protect against violation. For that matter it is difficult to reconcile with the origins of the human rights movement in revulsion against the unchecked atrocities of the Nazi government. The difficult question is not whether human rights are an international concern, but which forms of transnational action violations might be taken to justify.

The Content of Human Rights: Economic Rights

One result of adopting a pragmatic rather than a philosophical view about the *nature* of human rights is that more space is left open for dispute about their *content*. We see this clearly in connection with so-called 'economic' rights such as those to work, to an adequate standard of living and to decent healthcare. On at least one version of the view that human rights should be understood as natural rights, economic rights do not count at all (the *locus classicus* is Cranston, 1973.) If we think of natural rights as a person's entitlements in a pre-institutional situation like the state of nature, then while we can easily conceive of natural rights to liberty we have difficulty conceiving of rights to opportunities like a job or to goods like healthcare. There is also a further problem. Traditionally the state of nature is imagined as a situation that lacks not only political institutions but any form of organized social co-operation: there is no public law, no market structure, no detailed division of labour. The complex mutual dependencies characteristic of social life are largely missing. This restricts the range of considerations to which appeal might be made in explaining why we should regard anybody as under a duty to contribute to the satisfaction of economic rights. Considerations of humanity are available, of course, but at least according to the most common view these considerations are limited in the extent of sacrifice they can impose on people. Considerations of justice or reciprocity, on the other hand, are mostly excluded by the threshold assumption that there is little organized social co-operation. Even if we could give content to economic rights, we would have difficulty explaining how anybody could have an obligation to contribute to their satisfaction.

What this illustrates is that one's analytical conception of human rights – that is, one's view about their *nature* – can influence how one thinks about their contents and foundations. The extent and direction of the influence depends on the details of one's view about their nature. The natural rights interpretation is particularly constraining because it builds in, in a non-obvious way, a very limited view of the justifying grounds of human rights.

A pragmatic view, on the other hand, because it conceives of human rights in terms of their discursive function rather than their justification, imposes fewer restrictions on what might count as a good reason for including a value in a list of human rights. The main constraints would be those that follow from their discursive function: human rights should be capable of being accepted as justifying political action across boundaries. Thus, they should represent values whose importance could be recognized both by those on whose behalf such action takes place and by those called upon to act. And they should be capable of protection or advancement by one or another of the means

of political action typically available to external agents. Beyond these functional constraints, a pragmatic view leaves matters of content open to moral reasoning of a more-or-less ordinary kind.

Looked at this way, economic rights such as that to an adequate standard of living do not seem conceptually problematic. The formal concerns that inhibit natural rights theorists from accepting economic rights as genuine human rights fall away when we conceive of human rights in terms of their discursive functions; whether, for example, economic rights can be conceived as existing in a state of nature is simply not a matter of interest. And for the most part the constraints associated with the discursive role of human rights are readily satisfied. So, for example, there is no serious question that economic rights protect interests whose importance anyone could recognize, or that deprivations (or anyway serious ones) could be accepted by others as relevant grounds of action (for the canonical argument see Shue, 1996). And it does not appear that economic rights would be excluded by a generalized absence of potentially effective means of transnational political action.

The difficult questions about economic rights involve the allocation of international responsibilities to act when deprivations occur and the amount of cost that external agents can reasonably be expected to bear. The answers to both questions depend on the context in which they arise. *Prima facie*, cases in which international actors participate in the causal responsibility for a deprivation seem different from those in which a deprivation's causes are indigenous, and both are different from cases in which a deprivation is accidental (e.g., cases of natural disaster). All three types of cases might give rise to reasons for action for agents outside the society but the content of these reasons, the agents to whom they apply and the kinds of action they call for might differ. Put telegraphically, in the first case the appeal is to familiar considerations of harm avoidance and compensation; in the second, to considerations of background justice; and in the third, to considerations of humanity.

The first type of case might seem to be the most straightforward: *ceteris paribus*, when an agent's actions avoidably produce harm for others, the agent has a duty to compensate those who have been harmed. At large scale, however, the application of the harm principle is complicated by the difficulty of saying which of an agent's actions and omissions are morally significant contributors to the bringing about of harm. An agent might not have performed any action that directly causes harm yet be responsible for contributing to its production because the agent's actions or omissions sustained policies under which others were permitted or encouraged to engage in harmful action. Pogge's examples of the international 'resource' and 'borrowing' privileges illustrate this possibility: in each case provisions of international law enforced through the national courts and foreign policies of almost every country enable the governments of poor countries to behave in ways that exacerbate domestic poverty (2002, pp. 91–117). The question is whether a country's acceptance and enforcement of a system of international law with these provisions and effects should count as a morally significant form of causing harm. There does not seem to be any morally neutral way to answer this question; the answer depends on whether there is a defence for including these provisions in the system of international law, and this, in turn, depends on one's view about the conditions that a just system of international law should satisfy (Patten, 2005).

To return to the general point: because economic deprivation has many causes, it does not seem possible to give a single unified account of the grounds on which agents might be required to relieve immediate deprivation and reduce poverty levels. The reasons why some agents rather than others could be obligated to contribute and the degree of sacrifice they could be required to accept depend on the context. If one took a traditional view of human rights this might seem embarrassing: a right seems hardly worth the name if the practical consequences of asserting it are indeterminate. I believe, however, that the indeterminacy reveals an important feature of the discourse of human rights. The claim that a human right has been violated does not, so to speak, provide a self-contained argument that some agent should act so as to promote or protect the substance of the right. Such a claim states that the agent has a reason for action, but the claim may not, by itself, completely convey the content of this reason. Human rights claims have a kind of open moral texture: they call attention to a threat to an important human interest and invite enquiry into the features of the context that could explain why various agents who are in a position to act should do so (compare Sen, 2004).

Human Rights and International Toleration

Human rights are supposed to be 'universal': they apply to, or have force in, all existing societies regardless of the content of their moral cultures. In this way human rights express limits to the extent of acceptable global moral pluralism.

The possibility of conflict between universal human rights and culturally specific moral standards has worried many people. The Executive Board of the American Anthropological Association famously declared that human rights should be qualified by a recognition of 'the right of men to live in terms of their own traditions' (American Anthropological Association, 1947, p. 543). The moral relativism a reader might have thought implicit in this statement is philosophically controversial. But a trimmed-back (and non-relativist) form of the same worry survives in the thought that a global doctrine of human rights should be consistent with the value of international toleration.

What is 'the value of international toleration'? Toleration at the domestic level is an expression of several values. Historically it emerged as a condition of peaceful coexistence in religiously diverse societies – as a *modus vivendi*. Later toleration came to be seen as more than this – not only a necessity but also a virtue. Today its defenders argue that toleration of religious and other forms of diversity expresses respect for the capacities of individual persons to determine their own beliefs and more broadly to fashion the lives they wish to live. Those who believe that international toleration is a virtue usually argue by analogy: they hold that international norms should make room for diversity among individual societies not only because this may be a condition of peace but also because it expresses respect for the capacity of *societies* to determine their own futures (Rawls, 1999; Cohen, 2004).

This appeal to considerations of collective self-determination has intuitive force. It does not, however, help much in settling the question of the proper scope of human rights or the extent of social diversity that they should allow. This is because the

analogical argument for international toleration can conflict with what we might call the direct argument. The latter holds that we should value international toleration only when it serves to protect the values protected by toleration in its primary sense, as it applies within individual societies. According to this view, the analogical approach to international toleration is misguided: it has the perverse effect of protecting domestic intolerance. The proper expression of toleration in foreign policy is not found in acceptance of diversity among *societies* but rather in support of measures that protect individuals against intolerance, including that of their own governments (Tan, 2000, pp. 80–3).

The contrast between these conceptions of international toleration runs deep but it would be too quick to conclude that the values they represent cannot be accommodated within a single account of human rights. The key is to recognize that any plausible regime of toleration, at the domestic or international levels, must distinguish between beliefs and practices that fall within a 'protected range' and those that fall without. At the domestic level, for example, religious toleration may not extend to the protection of polygamy or the ritual sacrifice of animals.

We see this at the international level in Rawls's view of human rights. In his view, human rights are standards common to the political moralities of both liberal and 'decent', non-liberal peoples. Their political significance is functional: adherence to human rights is necessary for a people's acceptance as a member of 'a reasonably just Society of Peoples' and is sufficient to rule out intervention in its affairs (1999, p. 80). The conjunction of liberal and decent societies defines a 'protected range'. Societies falling outside this range are vulnerable to justified intervention.

Many of Rawls's critics reject this position as too concessive to non-liberal regimes and insufficiently protective of domestic minorities (e.g., Tan, 2000). Usually the criticism proceeds as if the pertinent question is whether institutions that fall short of the standards of liberal democracy are as just or legitimate as ones that satisfy these standards. But according to a functional view, this is not the pertinent question. The question is whether interference to enforce human rights would be justified. A defender of the Rawlsian position can concede that decent regimes are not as just or otherwise morally desirable as democratic institutions, yet still hold that interference would be unjustified. This could be for practical reasons (perhaps it would be too costly or difficult to control), but it might also be for a reason of principle: in such a case, it might be said, the value of collective self-determination trumps (Cohen, 2004).

References

American Anthropological Association: 'Statement on human rights' of the Executive Board, *American Anthropologist*, n.s. 49 (1947), 539–43.

Brownlie, I.: *Basic Documents on Human Rights*, 4th edn (Oxford: Clarendon Press, 2002).

Cohen, J.: 'Minimalism about human rights: the most we can hope for?' *Journal of Political Philosophy*, 12 (2004), 190–213.

—: 'A human right to democracy?', in *The Egalitarian Conscience: Essays in Honor of G. A. Cohen*, ed. C. Sypnowich (Oxford: Oxford University Press, 2006), pp. 226–48.

Cranston, M.: *What Are Human Rights?* (London: Bodley Head, 1973).

Feinberg, J.: *Social Philosophy* (Englewood Cliffs, NJ: Prentice-Hall, 1973).

Foot, R.: *Rights Beyond Borders: The Global Community and the Struggle over Human Rights in China* (Oxford: Oxford University Press, 2000).

Glendon, M. A.: *A World Made New: Eleanor Roosevelt and the Universal Declaration of Human Rights* (New York: Random House, 2001).

Griffin, J.: 'Discrepancies between the best philosophical account of human rights and the international law of human rights', *Proceedings of the Aristotelian Society*, 101 (September 2000), 1–28.

Ignatieff, M.: *Human Rights as Politics and as Idolatry* (Princeton, NJ: Princeton University Press, 2001).

Maritain, J.: 'Introduction', in UNESCO, *Human Rights: Comments and Interpretations* (London: Allan Wingate, 1949).

Nickel, J.: *Making Sense of Human Rights*, 2nd edn (Oxford: Blackwell Publishing, 2006).

Patten, A.: 'Should we stop thinking about poverty in terms of helping the poor?' *Ethics and International Affairs*, 19 (2005), 19–27.

Pogge, T.: 'How should human rights be conceived?', in *World Poverty and Human Rights* (Cambridge: Polity Press, 2002), pp. 52–70.

—: 'Severe poverty as a violation of negative duties', *Ethics and International Affairs*, 19 (2005), pp. 55–83.

Rawls, J.: *The Law of Peoples* (Cambridge, Mass.: Harvard University Press, 1999).

Sen, A.: 'Elements of a theory of human rights', *Philosophy & Public Affairs*, 32 (2004), 315–56.

Shue, H.: *Basic Rights*, 2nd edn (Princeton, NJ: Princeton University Press, 1996).

Tan, K.-C.: *Toleration, Diversity, and Global Justice* (University Park, PA: Pennsylvania State University Press, 2000).

Wasserstrom, R.: 'Rights, human rights, and racial discrimination', *Journal of Philosophy*, 61 (1964), pp. 628–41.

Chapter 35

International Distributive Justice

PHILIPPE VAN PARIJS

Distributive Justice: Domestic Versus Global

Distributive justice is achieved when entitlements to economic goods are allocated to people as they ought to be. Throughout most of the history of political philosophy, the attempt to specify the principles of distributive justice so conceived has been pitched at the domestic level: it has been concerned with distribution between the inhabitants of a city, the citizens of a country, the members of a society. But as the 'globalization' of communication and economic activity started being perceived, conceptualized and named, there were fewer and fewer people whose city was their world, and more and more for whom the world had become their city. From grassroots activists to armchair philosophers, serious thought started being given to the idea that the demands of distributive justice should be pitched primarily at the global level, at the level of mankind as a whole. For those following this track, it would seem natural that whatever conception of justice was deemed plausible for the distribution of resources between members of a particular society should also provide a suitable characterization of global distributive justice (see Barry, 1973, ch.12; Beitz, 1979, part III, for some early philosophical formulations). Yet, this view, as we shall see, turns out to be very controversial.

Any plausible conception of domestic distributive justice – so at least I shall here take for granted – reflects the idea that the members of a society should regard each other as equals and therefore owe each other a justification they can accept as equals for any inequality in the entitlements which their society's institutions define. Hence, while distributive justice need not require equal income or equal wealth, it will typically justify only two categories of economic inequalities: those which can plausibly be attributed to people's personal responsibility, rather than to morally arbitrary contingencies, and those which, though not stemming from choices and tastes for which people can be held responsible, can plausibly be claimed to benefit everyone, including their 'victims'. This conception of domestic distributive justice comes in many variants, the most influential among which is encapsulated in Rawls's (1971) second principle of justice, which requires social positions to be equally accessible to all for given talents (principle of fair equality of opportunity) and the social and economic advantages associated to the worst among these positions to be as large as they can sustainably be (difference principle).

So, should global distributive justice simply be conceived as a planet-wide blow-up of domestic distributive justice so conceived? Rawls (1993; 1999) himself, it turns out, firmly rejects this option, and so do a wide range of other political philosophers committed to an egalitarian conception of domestic justice. This rejection helped generate one of the most intense controversies in contemporary political philosophy. The key question is whether there are any features that distinguish the domestic realm from the global realm so decisively that while egalitarian distributive justice is appropriate to the former, it is not to the latter.

Peripheral Global Justice: Reparative, Commutative, Co-operative

Before turning to this key question, it is important and fair to note that those who deny that global distributive justice should be conceived on the egalitarian model of domestic distributive justice need not deny that there are nonetheless considerations of justice that constrain the international distribution of economic resources between countries. To start with, there are three types of considerations that do affect the allocation of economic goods but can only operate on the background of a prior distribution of just entitlements.

Firstly, suppose that some legitimate entitlements of at least some members of a particular society were transgressed in the past by members of another society, typically in the form of enslavement, occupation or colonization. In such cases, one can easily admit that restitution is owed by the perpetrators to the victims or, since in most cases restitution is impossible, at least reparation, i.e. adequate material compensation for the damage caused by the transgression. If perpetrators and victims have all died, the unrequited debt is passed on to their presumptive heirs, which can sometimes be roughly identified with the whole population of the relevant countries. Admittedly, the retrospective assessment of how serious the transgression was, who was responsible for it, who suffered from it and how much, is often so cluttered with uncertainty and imprecision that little guidance can be derived from it. But in principle at least it is possible to assert on this basis that a transfer of resources is owed by one country to another on grounds of justice, while consistently resisting anything like egalitarian global justice (see e.g. Walzer, 1995, pp. 292–3).

Secondly, there is the idea is that trade between countries must not only bring some gain to each, which it can be expected to do if no transgression of entitlements is involved, but that it must be ‘fair’. One ambitious interpretation of the ideal of ‘fair trade’ is to be found in the literature on ‘unequal exchange’ (Emmanuel, [1969] 1975) but raises all the problems intrinsic to the labour theory of value understood as a normative theory of fair prices (see Barry, 1979, §5; Van Parijs, 1993, ch. 7). A more modest interpretation consists in requiring that poorer countries should not suffer from prices that systematically diverge from those a competitive market would yield, whether because of monopoly positions or because of a very unequal access to relevant information, which can again be done while staunchly rejecting egalitarian global justice (see e.g. Miller, 1999a, pp. 204–9).

Thirdly, there is co-operation between or across countries which does not take the form of trade, but of the production of global public goods (Kaul et al., 1999), such as world peace, the prevention of damaging climate change, the guarantee of mutual aid in case of natural disasters, or the availability of a global lingua franca. Sometimes, an explicit deal needs to be struck for the public good to be produced, but sometimes the interest of some of the parties is sufficient for them to produce at least some of the desired amount of the public good, thus enabling other parties to free-ride. In either case, some notion of fair distribution of the burdens and benefits of co-operation is in order. It might require, for example, that the total net benefit should be distributed equally among all co-operators, as would follow, under some conditions, from David Gauthier's (1986) criterion of maximin relative benefit, or that the ratio of cost incurred to benefit enjoyed should be equal for all of them (Van Parijs, 2002). Whichever criterion is chosen, fair co-operation can only be specified using as a baseline each party's independently established legitimate entitlements, which define their fallback position in the absence of co-operation. Those who object to egalitarian global justice can feel comfortable with co-operative global justice (see e.g. Rawls, 1999, pp. 42–3).

Minimal Global Justice: Natural Resources and Basic Needs

The three dimensions of global justice explored so far can be regarded as 'peripheral', in the sense that they all rely on a prior worldwide definition of legitimate entitlements to economic goods. Once these entitlements are specified, all three forms of peripheral justice are fairly uncontroversial in their principle, if not in their implementation. But the fundamental question concerns the specification of the background entitlements. Two very different considerations challenge the claims sovereign states make to the economic resources under their jurisdiction, while still falling far short of egalitarian global justice.

Firstly, it is widely felt that a country's natural resources should be given a special status: they are 'something for which its inhabitants (present or past) can take absolutely no credit and to whose benefits they can lay no claim' (Barry, 1982, p. 451). From Thomas Paine's 'agrarian justice' and Henry George's 'single tax' to contemporary left libertarians (Steiner, 1999; 2001; 2002), many conceptions of justice incorporate an equal right to natural resources, domestically but also worldwide, which does not extend to other resources. Even those who do not want this right to be so restricted believe that the argument they offer can be particularly unqualified (Beitz, 1979, pp. 136–43) or is particularly compelling (Barry, 1982, pp. 448–51) in the case of natural resources.

Thus, according to Pogge (1994), Rawls's (1993; 1999) appeal to an 'original position' in which the representatives of peoples gather to choose principles of international justice should at least favour, on grounds of justice, a global 'resource dividend' that would share among all peoples the value of the natural resources each of them happens to be endowed with. Rawls does not endorse this conclusion but not, it seems, on the ethical ground that no such natural resource egalitarianism would emerge from his original position, but only on the basis of the empirical claim, backed by David Landes's (1998) work, that 'the crucial element in how a country fares is its political culture – its

members' political and civic virtues – and not the level of its resources' (Rawls, 1999, p. 117). Similarly, despite his vigorous resistance to egalitarian global justice in general, David Miller (1999a, pp. 191–7) concedes its appeal in the case of natural resources, while dismissing it in the end on the ground that our world is too culturally diverse to allow a sensible valuation and fair distribution of natural resources.

There is a second way of conceiving minimal distributive justice on a world scale, which does not focus on the special nature of some resources, but on minimal claims of all human beings. Among those who reject an egalitarian conception of global justice, some recognize only a humanitarian duty to come to the rescue of other human beings wherever they are (Walzer, 1995, p. 293; Nagel, 2005, p. 131). Humanitarian duties fall short of duties of justice, not because they are morally less obligatory, nor because they cannot be legitimately enforced, but most plausibly because they are not meant to track entitlements, they do not help define what people justly possess but rather what they ought to do with what they justly possess (see Barry, 1982, pp. 455–62).

For Rawls, the 'meeting of basis needs' is not a matter of global distributive justice either, but it does follow from the conjunction of two aspects of his view. First, as a matter of domestic distributive justice, all liberal or decent peoples must honour the human rights of their members, including the right to 'minimum economic security'. And second, all liberal and decent peoples have a duty of assistance to burdened societies, i.e. societies prevented by their socio-economic circumstances from achieving a just or decent well-ordered regime (Rawls, 1999, pp. 37, 6, 116). Other opponents of global egalitarian justice, such as David Miller (1999a, pp. 198–204), are willing to concede more directly that there is, as a matter of non-comparative global justice, a basic right to 'conditions that are universally necessary for human beings to lead minimally adequate lives', including a 'right to subsistence'. However, the primary responsibility for realizing this right lies with each political community. It is only when the latter fails that richer countries have a duty to intervene, including by constraining the operation of the governments of poorer countries so that they can secure themselves as soon as possible the basic rights of all their citizens.

How close Rawls's or Miller's position gets in practice to egalitarian global justice obviously depends on how generously one proposes to interpret basic needs. It also depends on the particular variant of egalitarian justice one is considering. Take, for example, Amartya Sen's (2000) conception of distributive justice as the securing of everyone's basic capabilities. If Rawls's 'minimal economic security' or Miller's conditions for a 'minimally adequate life' amount to the satisfaction of these basic capabilities, there may seem little to choose between. Even then, however, there remains a difference of some practical importance, namely whether there is a principled reason, or only, under some factual assumptions, a pragmatic one, for giving the domestic community the primary responsibility for the satisfaction of everyone's basic needs. And there also remains a fundamental philosophical difference, namely whether the affluent countries' duty of assistance to the poor of the world should be regarded as fundamentally distinct from the egalitarian principles appropriate between members of a particular society. What justifies this distinction? What is the crucial feature or set of features that particular countries possess and that the world as a whole does not possess but would need to possess for demands of egalitarian global justice to be legitimate?

No Global Justice without a Global People?

According to a first view, what would be needed is a global people, or a global community in a sense that implies both cultural similarity and mutual identification. This view can arguably be attributed to Rawls when he mentions as one of the key defining features of what he calls a people that its members should be 'united by common sympathies' and in particular, in the standard case on which he concentrates, 'united by a common language and shared historical memories' (Rawls, 1999, pp. 24–5). Such national unity is indispensable to the conception of just international relations Rawls proposes in *The Law of Peoples*. In its absence, peoples could not be regarded as 'reasonable moral agents', whom it makes sense to imagine entering a global original position. Some of these peoples are liberal, i.e. possess a constitutional democratic regime, while others are decent yet not liberal, i.e. are governed by some non-liberal 'common good conception of justice'. The principles they come up with in the original position are the standard principles of international law listed as a specification of the 'law of nations' in *A Theory of Justice* (Rawls 1971, §58), to which he subsequently added the respect for human rights and the duty of assistance to burdened societies referred to above (Rawls 1993; 1999, p. 37).

These principles do not include anything as egalitarian as a global difference principle. In the example Rawls uses to illustrate how counterintuitive such a principle would be, cultural similarity and mutual identification are taken for granted. To the extent that they can be, it is natural to regard peoples as moral agents responsible for the consequences of their choices. Rawls invites us to consider two countries similar at the start but making different choices: one decides to industrialize, while the other opts for 'a more pastoral and leisurely society'. After a while, the first country is much wealthier than the second. 'Should the industrializing country be taxed to give funds to the second? . . . This seems unacceptable' (Rawls, 1999, p. 117).

This view is not that different from the one defended by Michael Walzer (1983; 1995) and, most explicitly, by David Miller (1999a; 1999b). Their own egalitarian conception of justice – whether characterized as 'complex equality' or in terms of a set of principles of distributive justice applying to distinct spheres – applies only to the domestic level because it requires a community of a sort that mankind as a whole is far from having become. Apart from being politically organized into a state, such a community must possess two mutually reinforcing features: a common identity with the associated bonds of solidarity, and a common culture with the system of shared values and understandings it involves (Miller, 1999a, pp. 189–91; 1999b, pp. 18–19). It is only when these features are present that egalitarian justice can be given a specific content and can command people's allegiance; and no one can plausibly claim that they are present at the level of mankind as a whole. At this level, Walzer similarly emphasizes, there is no 'set of common meanings', and hence the sort of egalitarian conception of justice he advocates is irrelevant (Walzer, 1983, pp. 29–30; see also Walzer, 1995, p. 293).

This approach does not lack appeal. It is consonant, for example, with French 'republicanism', which identifies the nation with 'a space of accepted redistribution' (Rosanvallon, 1995). It is also consonant with the demands of nationalist movements

in (comparatively affluent) parts of multinational states such as Spain or Belgium, which stress the distinction between the strong solidarity which must govern a generous redistribution between the members of the national community they claim to represent and the much weaker solidarity which must govern a more parsimonious and conditional assistance from the richer national communities to the poorer ones. However, this approach raises at least three serious problems.

In the first place, those who believe in the relevance of egalitarian justice at the domestic level while denying it at the global level for the reason indicated cannot but be disturbed by the growing multiculturalization of domestic societies. As Walzer (1983, pp. 28–9; 1994, pp. 27–8), Miller (1999b, pp. 261–3) and Rawls (1999, p. 24) all recognize, the populations of many states become less and less peoples in the required sense. The permanent cohabitation, within the same territory, of people with quite different cultures is becoming a worldwide phenomenon, as a result of growing levels of migration combined with cheap travelling, trans-border media and other factors that tend to secure the indefinite survival of the immigrants' cultures in the host country. Barring a ferociously assimilationist policy, Walzer's or Miller's egalitarian justice may soon make as little sense on the domestic scale as they say it makes on the global scale. If 'the sharing [of intuitions and sensibilities] takes place in smaller units', then we should perhaps 'look for some way to adjust distributive decisions to the requirements of those units' (Walzer, 1983, p. 29). But for anyone not too keen on apartheid, this strategy does not hold much promise. Rawls has arguably less to fear from this process, as his own version of egalitarian domestic justice does not rely on thick 'common understandings' and should therefore be able to 'satisfy the reasonable cultural interests and needs of groups with diverse ethnic and national backgrounds' (Rawls, 1999, p. 25). Yet the unity through 'common sympathies' within peoples which he needs to be able to think of worldwide justice as justice between peoples is getting dangerously tenuous.

This first trend is all the more relevant, when seen in conjunction with a second one, hardly less powerful. National identity, to which a strenuous process of nation building had managed to give great prominence, is now for most people very far from being the main, let alone the exclusive focus of collective identity. Moreover, it is less and less the identity in which all other identities are nested. As emphasized by Amartya Sen (2002), our world is a world of multiple non-nested identities, a world of criss-crossing 'common sympathies', a world in which, for many people, identifying transnationally with fellow women, or fellow doctors, or fellow Muslims or fellow Mac fans, matters a great deal more than their identification with their compatriots. With the nation as each person's paramount collective identity, it may be attractive to think about justice with the help of a combination of two 'original positions', two thought experiments designed to yield impartial principles: one in which we are represented as individuals to adopt principles for our nation, and one in which we are represented through the nations with which we identify to adopt principles for the world. But with multiple competing non-nested identities, this two-stage procedure loses whatever obviousness it may possess on the background of Rawls's own increasingly surrealistic picture of the world. It does not follow that we need a whole family of original positions, each corresponding to one dimension of our identities. It rather suggests, in conjunction with the first trend, that the world population is gradually being knitted together by a complex network of cultural proximities and criss-crossing identifications that is turning it, in this respect, into

something not deeply different from what national populations have more or less laboriously become. If one persists in finding egalitarian justice relevant in the domestic context, therefore, one must find it relevant in the global context too.

There is, however, a third and more fundamental problem with an approach that makes the existence of peoples, defined by common cultures and identities, a necessary condition for the demands of egalitarian justice to apply. For peoples so defined are not given in the way in which individuals are. The formation and consolidation of democratic states did not fit neatly into the borders of peoples predefined by a common language, a common religion, a common history, a common culture. More often than not, they did not match anything that could be truthfully described as pre-existing nations. And when this was the case, they engaged in vigorous nation building by imposing, if not a common religion, at least a common language and hence, as time went by, a common culture, and soon also a common history, both real as a mechanical outcome of sharing political institutions and mythical as a result of reconstructing the more remote past so as to fit into a plausible national narrative. Along the way, they fashioned a strong national identity, which enabled them to count on some degree of patriotic self-sacrifice on the part of their citizens. The common culture and the shared identity generated by this process are arguably conducive to the realization of egalitarian distributive justice on whatever scale they exist (Van Parijs, 2004). And this needs to be taken into account when institutions are being designed. But how close people are to each other by virtue of their cultures and how much they identify with one another cannot sensibly provide an authoritative guide to choosing what criterion of justice should apply to them. Whether or not there are 'common sympathies' between some country's cultural majority and one of its cultural minorities, for example, cannot possibly determine whether the latter should, as a matter of justice, be treated as equals. Feelings ought to be shaped by just institutions. They ought not to dictate which institutions should be regarded as just (see Weinstock, 2003, pp. 274–6).

No Global Justice without Global Democracy?

The rise of modern nations has been closely linked to the rise of democratic regimes, and those who were intuitively inclined to adopt the first view just discussed may therefore easily be convinced to eschew its difficulties by shifting to a second view. For the demands of egalitarian justice to apply, what we need is not an ethnos but a demos, not a homogenous people with a common culture and a shared identity, but a self-governing people or a democracy, a society whose collective decision-making regime grants equal political rights to all its members.

At first sight, this view could be attributed to the John Rawls of *A Theory of Justice*, who presents his own egalitarian conception of justice as 'the most appropriate moral basis for a democratic society' (Rawls, 1971, p. viii). What the latter expression refers to, however, is not a particular form of government, but a society whose members regard one another as equals, treat others and expect to be treated by others with an equal concern and respect, and must therefore be assumed to be capable of a sense of justice (see Cohen, 2003, §2.2). It can reasonably be hoped, and plausibly be supposed,

that the operation of a democratic regime, and in particular of a deliberative democracy, will tend to nurture such attitudes and capacities, and there is little doubt that any egalitarian conception of justice would endorse, both for intrinsic and instrumental reasons, a democratic regime (Rawls, 1971, §36). But such a democratic regime does not need to be in place before Rawls's conception of justice as fairness can be appealed to and elaborated, in particular with the help of the original position device, whose purpose is precisely to spell out the normative demands constitutive of the 'democratic society'.

This is not quite the case for Jürgen Habermas (1992), whose 'discourse principle' requires that principles of distributive justice be constructed through a process of appropriately framed actual deliberation between the people concerned. However, 'the correct assumption that duties of justice are only well-defined on the basis of democratic processes should not be confused with the faulty claim that duties of justice cannot arise in their absence' (Rummens, 2006, p. 9). From Habermas's perspective, therefore, claims of justice based on the equal moral worth of all human beings are intelligible before any political institutions are in place at the relevant level and indeed can motivate and support the urge to create the democratic institutions that could specify and implement what justice demands. Habermas's (2004; 2005) own endeavour to imagine a multi-layered coherent system of democratic institutions can therefore consistently be interpreted as guided by a concern for global justice, even though it is up to the actual global deliberation thus rendered possible to determine how egalitarian a distribution global justice will require.

Hence, it is rather Thomas Nagel who comes closest to asserting that global justice could only make sense on the background of a pre-existing global democracy. For demands of egalitarian justice can only legitimately arise, in his view, to the extent that society does not only hold us responsible for obeying its laws, but also 'makes us responsible for its acts, which are taken in our name and on which, in a democracy, we may even have some influence': for egalitarian justice to be triggered, we need to be both the subjects and the co-authors of the coercive laws (Nagel, 2005, p. 129). Thus, the reason why Nagel (ibid., p. 144) refuses to view the European Union as a whole, rather than each of its member states, as the level appropriate for claims of egalitarian distributive justice is that we still cannot see 'a genuine European federation with some form of democratically elected representative government'.

However, Nagel himself does not stick to this view. When faced with the question of whether appeals to egalitarian justice can meaningfully be made in colonial regimes, he shifts to 'a broad interpretation of what it is for a society to be governed in the name of its members'. The crucial feature turns out to be that a 'normative engagement' to uphold the coercive legal system is expected from the subjects, and hence that those who wish to impose it must claim that 'it is intended to serve their interests even if they are not its legislators' (Nagel, 2005, p. 129, n. 14). We are back from the democratic regime to the democratic society. What is needed is simply that those human beings who have some say over the prevailing coercive rules should be expected to provide a justification for these rules to those expected to comply with them (see Julius, 2006, pp. 179–81): not just motives to obey them, such as the sheer fear of sanctions, but reasons to accept them as human beings entitled to equal concern and respect. What

is needed, in other words, is mutual acceptance as members of the same 'justificatory community' (Cohen, 1992, pp. 282–3).

The key condition we thus end up with is not the factual one of the existence of a democratic regime, but a normative view about what relations should prevail between human beings. However, it must be conceded that such a normative view cannot make much sense unless some factual conditions are fulfilled, essentially that the people concerned should be able to picture their relations with one another as relations between individuals rather than only between groups and as conversational relations which allow arguments to be formulated, understood and discussed. The functioning of a deliberative democracy within a country routinely creates and recreates such factual conditions at the domestic level. But they are also fostered beyond national boundaries by the expansion of travelling and transnational media, by the spreading of lingua francas and the internet, by the transnational activities of churches and NGOs, by Davos as well as by Porto Alegre, by the multidimensional widening and thickening of a global civil society. So, why could we not regard mankind as a whole as a society of equals to which egalitarian justice should apply?

No Global Justice without a Global State?

The answer may simply be that mankind does not form a society, i.e. a set of human beings whose life is organized by a common social structure. Once admitted that democratic co-authorship is not a necessary condition for egalitarian justice to apply, Nagel can still maintain, as others did before him, that subjection to a coercive legal system, currently absent at the global level, constitutes such a condition. No egalitarian justice, in other words, without a state, i.e. an authority, whether democratic or not, able to create and enforce a coercive framework that powerfully constrains the options open to the individuals subject to it (Blake, 2002, pp. 265–6, 279–80; Nagel, 2005, pp. 120–1, 139–40).

According to both Blake (2002, pp. 283–4) and Nagel (2005, p. 123), this is the fundamental reason – rather than the 'common sympathies' contingently associated with states – why Rawls rightly restricts the application of his two principles of justice to the level of sovereign nation-states. Throughout his work, Rawls consistently asserts that the primary subject of justice is the 'basic structure of society', i.e. 'the way in which the major social institutions distribute fundamental rights and duties and determine the distribution of advantages from social cooperation', and that this needs to be the case because the effects of the basic structure 'are so profound and present from the start' (Rawls, 1971, §2). At the global level, however, as stressed by Samuel Freeman (2006, p. 61) in defence of the line taken by Rawls in *The Law of Peoples*, 'there is no global structure mainly because there is no world-state, with all it would entail'. For example, 'since there is no world-state, there is no independent global property system to apply a principle of distributive justice to, such as the difference principle'. On this account, the reason why global justice makes no sense is not that there is no global people, nor that there is no global democratic state, but simply that there is no global state. This claim raises two main difficulties.

The first one is, again, that the stylized picture of the world on the background of which the claim can be expressed most comfortably is in the process of losing touch with reality. That there is no unitary sovereign authority with a truly global reach is uncontroversial. But do sovereign states still exist? In today's world, coercive laws are multi-layered. In several federal states, many laws with effects both 'profound and present from the start' emanate from federated entities endowed with a firmly entrenched autonomy. Above the level of nation-states, a regional supranational entity such as the European Union has developed extensive legislative powers (see Rawls and Van Parijs, 2003). Reducing these to voluntary intergovernmental agreements has become increasingly illusory, firstly because of the growing legislative role of the European Parliament and other non-intergovernmental bodies, secondly because of qualified majority replacing unanimity in intergovernmental decisions, and thirdly because of the right of secession becoming increasingly notional. The massive legislation accumulated at the EU level undoubtedly generates countless effects, again 'profound and present from the start' on all EU residents, backed with a set of sanctions admittedly implemented by national administrations, police forces and courts, but themselves subjected to binding verdicts by the European Commission and the European Court of Justice. Does this make egalitarian justice as relevant to the EU as a whole as Nagel believes it is to the United States? If the imposition of a coercive legal framework is the relevant criterion, rather than the democratic standard invoked by Nagel (2005, p. 144) to disqualify the European Union, the answer, it seems, should be positive.

And if it is, should we not go further? The second half of the twentieth century has witnessed the development of a growing number of worldwide supranational organizations with competences extending to distributive matters, such as the World Bank, the International Monetary Fund, the International Labour Organization, the United Nations Development Programme and, most impressively, the World Trade Organization (see Cohen and Sabel, 2006), with the effective power of imposing binding rules on all its member countries and with again for most of these a merely formal possibility of withdrawal which is becoming increasingly notional. Global organizations may have no police and no army at their disposal, and hence no law enforcement tool as usually conceived. But in a world in which countries have become increasingly dependent on exchange with one another, trade sanctions can be at least as effective as armed intervention. If powerful common coercive rules are the key criterion, Nagel's 'statism' should be replaced by a weaker 'political institutionalism' as a specification of what triggers egalitarian justice. The patchwork of global supranational organizations sketched above falls far short of what a global state would be. But they are the setting of complex decision processes, often opaque and inegalitarian, that produce coercive rules to which powerful distributive effects can now plausibly be ascribed. This is especially the case if these effects are understood, as they should be, not simply as the difference the supranational organizations made with respect to the past, but as the difference between the situation that currently obtains and the many other situations which they have become able to bring about. Consequently, there seems to be more than enough by way of global state-like institutions for there to be a global basic structure, and hence for egalitarian justice to make global sense even on Nagel's 'statist' view.

No Global Justice without a Global Basic Structure?

More fundamentally, however, it can be objected that the existence of a common legal framework developed by global state-like authorities is by no means required for a global basic structure to exist, i.e. for there to be 'major social institutions' that 'distribute fundamental rights and duties and determine the distribution of advantages from social cooperation' at the global level. This is taken for granted, for example, by Thomas Scanlon (1973, pp. 1066–7) in one of the earliest in-depth discussions of Rawls's *Theory of Justice*: 'considerations of justice apply at least wherever there is systematic economic interaction; for whenever there is regularized commerce there is an institution in Rawls's sense, i.e. a public system of rules defining rights and duties etc. Thus the Difference Principle would apply to the world economic system taken as a whole as well as to particular societies within it.'

This global Rawlsianism was subsequently developed by Charles Beitz (1979, pp. 129–83): the international interdependence generated by economic interaction creates the conditions for the application of a global difference principle. However, what is it exactly that this principle is supposed to govern? If what triggers global justice is co-operation between nations, should the scope of global justice not be restricted to the co-operative surplus? 'Roughly, it seems that there is a threshold interdependence above which distributive requirements like a global difference principle are valid, but below which significantly weaker principles hold' (Beitz, 1979, p. 165). If co-operation is what matters we are obviously back to one of the peripheral notions of global justice briefly discussed at the start.

However, Rawlsian justice is best understood not as a matter of distributing impartially some co-operative surplus between the economic agents who helped produce it, but as a matter of treating impartially all those expected to co-operate in the distinct sense of complying willingly with the coercive rules imposed on all of them. So at least Brian Barry (1982; 1989) has forcefully argued, while stigmatizing Rawls's misleading formulations and emphasizing the crucial importance of this distinction in the global context. Even in the domestic context, the fact that there is precious little an individual could achieve in the absence of some social co-operation (Rawls, 2001, §21) does not make the co-operative surplus coincide with the whole social product, to all of which the difference principle would therefore apply unproblematically. For substantial subsets of the country's population could conceivably withdraw, or meaningfully speculate about what they could achieve in the absence of collaboration with the rest, and argue that this should be justly exempted from the countrywide distribution of the burdens and benefits of co-operation. Such speculations are obviously even more straightforward at the international level. But they are irrelevant if justice is not about the fair sharing of the co-operative surplus but about the impartial distribution of the benefits and burdens allocated within the framework of a coercive structure with which people are expected to comply. This clarification is taken on board in Beitz's later reformulation of his 'Rawlsian' approach to global justice: the fundamental point is not that there is co-operation for mutual benefit, but that 'this world contains institutions and practices at various levels of organization – national, transnational, regional and global – which apply to people largely without their consent and which have the capacity to

influence fundamentally the courses of their life' (Beitz, 1999, p. 204). Whether or not it consists to a significant extent in rules determined by supranational organizations, there is a global basic structure, to which egalitarian justice applies.

A similar assumption underlies Thomas Pogge's (2001; 2002) position. There is an international economic order consisting of institutions and practices, sometimes the outcome of multilateral agreements, sometimes unilaterally imposed by some countries on others. It covers the rules governing trade and investment, but also for example the international borrowing and resource privileges conferred on a country's rulers. So conceived, this international economic order obviously has a major influence on worldwide inequalities. By supporting it, Pogge argues, the citizens of the richer countries *harm* the poor of the world. To trigger significant transfers from the North to the South, we therefore need to appeal to nothing more controversial than the sheer negative duty not to harm. But what counts as harming the poor?

As several critics have argued (Gilabert, 2004; Risse, 2005a; 2005b), this notion is far from clear. If harming the poor is making them worse off than they *would* have been, one could not really say that the international economic order harms them, as most of them would not have been born had it not been for the dramatic fall in child mortality that can plausibly be ascribed to some aspect of that order. If it is making them worse off than they *could* have been, the proposition becomes trivially true, as it could confidently be asserted for the rich and the poor alike. As subsequently clarified by Pogge (2005), harming the poor should rather be understood as making them worse off than they *should* have been, i.e. how well off they would have been had the international economic order been just. To know what 'harming' is, one therefore needs to know what justice requires (not the other way round). In order to gather a wide consensus, Pogge's plea for global redistribution tends to use a deflated conception of justice, reducing either to the sharing of part of the value of natural resources (Pogge, 1994) or to the fulfilment of the human right to freedom from severe poverty (Pogge, 2001). However, once the international economic order, the pervasive causal impact of which Pogge persuasively stresses, is identified as a global basic structure, it is natural, in a Rawlsian perspective, to regard it as governed by a global difference principle and hence to consider that the world's poor are being harmed if there is a sustainable way of making them better off, without making anyone else worse off, than they currently are.

Borders between Equals

The practices and institutions which Scanlon, Barry, Beitz and Pogge have in mind when asserting that there is a global basic structure despite the absence of a global state tend to be institutions that regulate the interaction and collaboration between nations as such or subsets of their populations. But there is one obvious and powerful component of the global structure which takes a different form and arguably provides the most straightforward basis for demands of global justice: the sheer existence of national borders (see e.g. Cavallero, 2006). The latter implies that people are being prevented, by virtue of where they happen to be born, from taking advantage of opportunities open to people born elsewhere. Again, this has a major effect on people's lives, both 'profound

and present from the start', and to establish that the rules embodied in borders are coercive, it is hardly necessary to point to the many people who were killed while attempting to trespass or died as a result of not daring to try. The complex system formed by the conjunction of border-crossing rules, some internationally negotiated, most unilaterally imposed, form a highly significant portion of a coercive global basic structure, which applies, be it differentially, to all of us and which strongly constrains, very unequally, where we can travel, settle and work. In a world in which communication was so limited or travelling so risky or expensive that few considered moving, this set of coercive laws was of little importance. But in today's interconnected world, the impact of these coercive laws on people's living conditions is conceivably greater than that of any other aspect of legislation.

To trigger demands of egalitarian global justice, from this perspective, we need far less than a global democracy, far less than a global state, far less than global political institutions, far less even than a socio-economic order that could be said to apply across the globe. It is enough to have our life prospects significantly affected by constraints which are not natural necessities but coercive rules on which at least some of us human beings have some grip. Joined with the recognition that those whose choices are constrained by these rules are not inferior beings but persons we regard as fundamentally equal, it is this particular form of interdependence – the dependence of people's fate across the globe on coercive rules imposed, and hence alterable, by some of them – which constitutes a necessary and sufficient condition for egalitarian global justice to apply. On the global level just as on the domestic level, once there are coercive rules with which we expect other human beings to comply, however badly they fare under them, our regarding them as equals forces us to come up with a justification, with good reasons for people who are our equals to accept them. No more is needed, on this view, than for human beings to knock at our nation's door and, if we do not let them in, for us to agree that we owe them a justification they can accept.

Suppose we adopt such a minimalist conception of what is necessary and sufficient for the demands of egalitarian justice to kick in. Under present conditions – with a global basic structure that has become the subject of a global conversation – global distributive justice should then evidently be given logical priority over domestic distributive justice. It would not follow that states and nations ought to vanish, that borders ought to be erased or peoples dissolved. But they must all be demoted from the framework to the toolbox. Instead of seizing them in a desperate attempt to halt the irresistible globalization of our sense of justice, we must urgently think about how they can best be constrained, reconfigured and empowered in the service of distributive justice for a global society of equals.

References

Barry, B.: 'The Liberal Theory of Justice. A Critical Examination of the Principal Doctrines' in *A Theory of Justice by John Rawls* (Oxford: Oxford University Press, 1973).

—: 'Justice as reciprocity' (1979), in B. Barry, *Democracy, Power and Justice* (Oxford: Oxford University Press, 1989), pp. 463–93.

—: 'Humanity and justice in global perspective' (1982), in *Democracy, Power and Justice*, ed. B. Barry (Oxford: Oxford University Press, 1989), pp. 434–62.

—: *Theories of Justice* (Hemel Hempstead: Harvester Wheatsheaf, 1989).
Beitz, C.: *Political Equality: An Essay in Democratic Theory* (Princeton, NJ: Princeton University Press, 1979).
—: 'Afterword to the revised edition', in *Political Equality: An Essay in Democratic Theory* (Princeton, NJ: Princeton University Press, 1999), pp. 185–219.
—: 'Rawls's Law of Peoples', in *Ethics*, 110, 4 (July 2000), 669–96.
Blake, M.: 'Distributive justice, state coercion, and autonomy', *Philosophy & Public Affairs*, 30 (2002), 257–96.
—: 'International justice', *Stanford Encyclopedia of Philosophy*, (2005).
Caney, S.:. 'International distributive justice', *Political Studies*, 49 (2001), 974–97.
—: *Justice Beyond Borders: A Global Political Theory* (Oxford: Oxford University Press, 2005).
Cavallero, E.:. 'An immigration-pressure model of global distributive justice', *Politics, Philosophy & Economics*, 5 (2006), 97–127.
Cohen, G. A.: 'Incentives, inequality and community', *The Tanner Lectures on Human Values* (Salt Lake City: University of Utah Press, 1992), pp. 261–329.
Cohen, J.: For a democratic society', in *The Cambridge Companion to John Rawls*, ed. S. Freeman (Cambridge: Cambridge University Press, 2003), pp. 86–138.
Cohen, J. and Sabel, C.: 'Extra rem publicam nulla justitia', *Philosophy and Public Affairs*, 34 (2006), 146–75.
Emmanuel, A.: *L'Echange Inégal. Essai sur les antagonismes dans les rapports internationaux* (1969) (Paris: Maspero, 1975).
Freeman, S.: 'The law of peoples, social cooperation, human rights, and distributive justice', *Social Philosophy & Policy*, 24 (2006), 29–68.
Gauthier, D.: *Morals by Agreement* (Oxford: Oxford University Press, 1986).
Gilabert, P.: 'The duty to eradicate global poverty: positive or negative?', *Ethical Theory and Moral Practice*, 7 (2004), 537–50.
Habermas, J.: *Faktizität und Geltung* (Frankfurt: Suhrkamp, 1992).
—: 'Hat die Konstitutionalisierung des Völkerrechts noch eine Chance?', in J. Habermas, *Der gespaltene Westen* (Frankfurt: Suhrkamp, 2004), pp. 113–93.
—: 'Eine politische Verfassung für die pluralistische Weltgesellschaft?', in J. Habermas, *Zwischen Naturalismus und Religion* (Frankfurt: Suhrkamp, 2005, pp. 324–65.
Hinsch, W.: 'Global distributive justice', *Metaphilosophy*, 32 (2001), 58–93.
Jones, C.: *Global Justice. Defending Cosmopolitanism* (Oxford: Oxford University Press, 1999).
Julius, A. J. 'Nagel's atlas', *Philosophy & Public Affairs*, 34, 2 (2006), 175–92.
Kaul, I., Grunberg, I. and Stern, M. A., eds: *Global Public Goods: International Cooperation in the 21st, Century* (New York: Oxford University Press, 1999).
Landes, D.: *The Wealth and Poverty of Nations* (New York : Norton, 1998).
Miller, D.: 'Justice and global inequality', in *Inequality in World Politics*, ed. A. Hurrell and N. Woods (Oxford: Oxford University Press, 1999a), pp. 187–210.
—: 1999b. *Principles of Social Justice* (Cambridge, Mass.: Harvard University Press, 1999b).
Moellendorf, D.: *Cosmopolitan Justice* (Boulder, Col.: Westview Press, 2002).
Nagel, T.: 'The problem of global justice', *Philosophy and Public Affairs*, 33, 2 (2005), 113–47.
Nussbaum, M. C.: *Frontiers of Justice. Disability, Nationality, Species Membership* (Cambridge, Mass.: Harvard University Press, 2006).
Pogge, T.: *Realizing Rawls* (Ithaca, NY: Cornell University Press, 1990).
—: 'An egalitarian law of peoples', in *Philosophy and Public Affairs*, 23 (1994), 195–224.
— ed.: *Global Justice*, special issue of *Metaphilosophy*, 32, 1/2 (2001).
—: 'Priorities of global justice', in *Global Justice*, ed. T. Pogge, special issue of *Metaphilosophy* 32, 1/2 (2001), 6–24.

—: *World Poverty and Human Rights* (Cambridge: Polity Press, 2002).
—: 'Reply to the critics: severe poverty as a violation of negative duties', in *Ethics and International Affairs*, 19, 1 (2005), 55–84.
Rawls, J.: *A Theory of Justice* (Cambridge, Mass.: Harvard University Press, 1971).
—: 'The Law of Peoples', in *On Human Rights*, ed. S. Shute and S. Hurley (New York: Basic Books, 1993), pp. 41–82.
—: *The Law of Peoples* (Cambridge, Mass.: Harvard University Press, 1999).
—: *Justice as Fairness: A Restatement* (Cambridge, Mass.: Harvard University Press, 2001).
Rawls, J. and Van Parijs, P.: 'Three letters on *The Law of Peoples* and the European Union', in *Autour de Rawls*, special issue of *Revue de philosophie économique*, 8 (2003), 7–20.
Risse, M.: 'How does the global order harm the poor?', *Philosophy and Public Affairs*, 33 (2005a), 349–78.
—: 'Do we owe the poor assistance or rectification?', *Ethics and International Affairs*, 19, 1 (2005b), 9–18.
Rosanvallon, P.: *La nouvelle question sociale: Repenser l'Etat-providence* (Paris: Seuil, 1995).
Rummens, S.: *No Justice without Democracy: A Deliberative Approach to Global Distributive Justice* (Leuven: Katholieke Universiteit Leuven, 2006).
Scanlon, T.: 'Rawls' theory of justice', *University of Pennsylvania Law Review*, 121 (1973), 1020–69.
Sen, A.: *Reason before Identity* (Oxford: Oxford University Press, 1999a).
—: 'Global justice. Beyond international equity', in *Global Public Goods*, ed. I. Kaul, I. Grunberg and M. A. Stern (Oxford: Oxford University Press and UNDP, 1999b), pp. 116–25.
—: *Development as Freedom* (New York: Anchor Books, 2000).
—: 'Justice across borders', in *Global Justice and Traditional Politics*, ed. P. deFreid and C. Cronin (Cambridge, Mass.: MIT Press, 2002).
—: 'Open and closed impartiality', *Journal of Philosophy*, 99, 9 (2002), 445–69.
—: 'What do we want from a theory of justice ?', *Journal of Philosophy*, (2006)
Steiner, H.: 'Just taxation and international redistribution', in *Nomos XLI: Global Justice*, ed. I. Shapiro and L. Brilmayer (New York: New York University Press, 1999).
—: 'Hard borders, compensation, and classical liberalism', in *Boundaries and Justice*, ed. D. Miller and S. Hashmi (Princeton, NJ: Princeton University Press, 2001).
—: 'Compatriot solidarity and justice among thieves', in *Real Libertarianism Assessed*, ed. A. Reeve and A. Williams (Basingstoke: Palgrave Macmillan, 2002), pp. 161–71.
Tan, K.-C.: *Cosmopolitanism, Nationalism and Patriotism* (Cambridge: Cambridge University Press, 2004).
Van Parijs, P.: *Marxism Recycled* (Cambridge: Cambridge University Press, 1993).
—: *Real Freedom for All: What (If Anything) Can Justify Capitalism?* (Oxford: Oxford University Press, 1995).
—: 'Linguistic justice', *Politics, Philosophy and Economics*, 1 (2002), 59–74.
Walzer, M.: *Spheres of Justice* (New York: Basic Books, 1983).
— ed.: *Cultural Diversity versus Economic Solidarity* (Brussels: De Boeck, 2004).
—: *Linguistic Justice for Europe and for the World* (Oxford: Oxford University Press, forthcoming).
—: 'Response', in *Pluralism, Justice and Equality*, ed. D. Miller and M. Walzer (Oxford: Oxford University Press, 1995), pp. 281–307.
Weinstock, D. M.: 'Miller on distributive justice', in *Forms of Justice: Critical Perspectives on David Miller's Political Philosophy*, ed. D. A. Bell and A. De-Shalit (Oxford: Rowman & Littlefield, 2003), pp. 269–86.

Chapter 36

Intellectual Property

SEANA VALENTINE SHIFFRIN

Intellectual property theory grapples with intriguing questions about the political and personal significance of our mental labour and creativity, the metaphysics of art and expression, the justifications for private property, and conflicts between property and free expression rights. This chapter begins with an introduction to the nature of intellectual property, comparing intellectual property to physical property. It continues with an overview of some arguments for, and criticisms of, the legal protection of intellectual property, and concludes with some ethical issues about illegal downloading.

What is Intellectual Property?

'Intellectual property' is used ambiguously. Sometimes it refers to the system of legal protection over useful or expressive inventions, expressions and products the generation of which typically involves the creative use of the mental faculties. Others use the term, as I will, to refer to inventions and products themselves – those things, schemes, objects and ideas – that *may* in turn be the subject of strong legal protection. I will use 'intellectual property rights' to refer to private forms of legal protection and power given over intellectual property, such as the rights conferred by copyright. (For convenience, I will mine the particulars of US intellectual property law for concrete examples.)

The forms of intellectual property are diverse, including letters, books, essays, other written materials, musical compositions, recordings, plays, films, sculptures, paintings, photographs, other forms of artwork, architectural blueprints, logos, inventions, computer programs, and perhaps even visages, names and features of a person's life history, personality and reputation. More controversially, some include biological materials that have been humanly manipulated or whose discovery depended on complex investigative processes, such as some genes, cell lines, genetically altered bacteria, mice and human proteins (Munzer, 2002). Abstractly conceived, much intellectual property consists of those goods, roughly speaking, whose production or specific identification depends primarily upon human cognition and imagination, and only secondarily upon raw materials and physical exertion (see also Becker, 1993). Intellectual property often

involves rendering concrete and external the unique contents of a human mind so that they may be made accessible to and usable by others. By contrast, land – quintessential physical property – does not depend for existence on cognition and imagination; neither do minerals, water, air, nor many animals and plants.

However, the existence of many physical goods, such as particular flat brooms, chairs, pies, and bred animals and plants, does partly depend on the exertion of human labour guided by mental efforts. What distinguishes intellectual property? Or, as some may pose the question, what distinguishes the intellectual property component of a particular physical good? Intellectual property is typically distinguished by its being a type for which there may be many tokens *and* by the labour involved in its production. When referring to Jane Austen's *Pride and Prejudice*, one may either refer to the ordered collection of words that together compose a narrative of characters and a story, or to a particular, perhaps well-worn, physical copy of the book. Roughly, the 'intellectual property' component of the book consists of the ordered collection of words that make up the work *Pride and Prejudice*, or perhaps the story line, characters, and some major subset of the ordered collection of words contained within an authoritative edition. Once these words have been 'fixed', collected together in a format that may be adverted to at different times (e.g. in writing or an oral recording), they may be replicated into many physical token copies. Human labour generates both the ordered collection and the physical copies. The primary labour involved in intellectual property's production is the exercise of the creative faculties supplemented by some physical labour to make these thoughts tangible, publicly accessible, and usable by others. The product itself, though, may be abstract, like the number 5. It may lack a specific spatio-temporal location, but may be partly or fully instantiated or represented in different locations, partly or fully replicated, transformed in whole or part, and used in a variety of ways. An indefinite number of copies of a book may be printed; a book may be excerpted, translated, parodied or made into a film; many physical copies of a particular musical recording may be made; a musical composition may be multiply recorded, transposed or sampled in another composition; many tokens of an invention may be produced; the underlying innovation of an invention may be used as a component of yet another invention. So, to return to the broom, no particular flat broom in your closet is intellectual property, but each instantiates a particular invention; the invention of the flat broom marks the creation of intellectual property, although its Shaker-inventor generously did not seek a patent on it (Hooper, 2003).

Generally, intellectual property *rights* give the creator control over who uses the intellectual property, and under what conditions. With important qualifications, these rights are usually transferable. Copyright and patent typically have restricted terms; currently, copyright lasts seventy years after the author's death and patent lasts twenty years. After the term expires, the work enters the public domain for unrestricted use. In most jurisdictions, intellectual property rights divide into the categories of copyright, patent, trademark, rights of publicity, trade secret law and 'moral rights'.

Copyright typically covers original written expressions such as books, articles, poems and musical compositions, but also printed images such as paintings, photographs and drawings. Subject to some exceptions for fair use, copyright affords the right-holder the ability to prevent use, copying and sampling in whole or in part, performance and

distribution of a work. Copyright also empowers the right-holder to prevent others from making 'derivative' works; in recent years, this right had been more expansively and, thereby controversially, interpreted. Derivative works are distinct, 'spin-off' works, inspired by the original. Examples include *Brokeback Mountain*, the film version of E. Annie Proulx's short story; a novel's sequel; and comic books that imagine alternative universes from the original, such as the *Dark Empire Series,* which explores the consequences of Luke Skywalker's joining the Dark Side. Some derivative works involve perspectives on the original work of which the copyright owner disapproves, such as *The Wind Done Gone*, a retelling of *Gone with the Wind* from the perspective of the slaves (see *Suntrust Bank* v. *Houghton Mifflin Co.*, 2001).

Patent covers novel, useful and non-obvious inventions such as the telephone and the phonograph, but also chemical formulas and compositions, some computer programs, designs, some biological and chemical methods and processes, and, more controversially, some biological products and materials created or discovered through these processes. A patent holder is enabled to prevent others from using, generating or distributing tokens of the invention, or distributing variations and improvements on it. Usually, the holder will exact payment for the invention's use, although patent law permits the holder to refuse to license use no matter what payment is offered, for no reason in particular. An inventor may wish to be the exclusive manufacturer of her invention or for it not to be made at all, perhaps for perverse reasons or perhaps to avoid its competition with another, more profitable product of the same inventor's. A drug to cure cancer may compete with more expensive drugs that treat the symptoms over time; patent holders have the power to suppress all use of the cure, even though suppression may harm many patients.

Trademark standardly covers commercial names and logos, such as the name 'Nike' and the famous swoosh symbol, and permits the owner to police and prevent their use by others. Loosely, the right of publicity is the personal counterpart to trademark. The right permits a public figure, e.g. a celebrity, to exert control over others' commercial use of her name, visage and other distinctive characteristics. Because of his objection to commercial endorsements, Tom Waits used the right against a Doritos advertisement that featured singing imitative of his distinctive voice.

Trade secret empowers its holders to police the use and exposure of confidential information within an organization, typically a business, about that organization's methods, databases, formulas and production designs. The formula for Coca-Cola is perhaps the most famous trade secret.

Finally, 'moral rights' legislation enables creators to protect the integrity of their work (e.g. to forbid alterations to the structure of a sculpture or building), to require attribution (that copies of the work bear the creator's name), and sometimes to reclaim specific tokens of the work from their owners upon offering compensation. Moral rights are stronger and more common in Europe than in the USA.

Diverse issues arise with respect to these different protections and kinds of intellectual property. The chapter's remainder will focus on issues common to them and some issues that arise predominantly for copyright. Even so, space considerations preclude tackling many interesting issues that emerge out of the complexities of copyright (the angels in the details, so to speak).

Justifications

Roughly labelled and classified, three main schools of justifications are offered for strong intellectual property protection: Lockean theories; personality-based theories; and consequentialist, incentive-oriented theories (Waldron, 1993; Fisher, 2001). In brief, Lockean theories contend that creators deserve to own and control intellectual works because they laboured to create them. Personality theories, sometimes (controversially) referred to as 'Hegelian,' appeal to the creator's expressive and dignity interests. Consequentialist theories do not, by contrast, locate the justification for strong intellectual property protection in creators' individual rights. They advocate strong protections to provide necessary incentives for the creation of intellectual works that serve the general public interest.

Before investigating these justifications, it is worth making explicit what is at stake in the debates about intellectual property. Although this is often overlooked, the real issue is *not* whether those who make intellectual property should receive compensation for their labour and production costs. In the contemporary debate, both proponents and opponents of strong intellectual property protection concur that creators of intellectual property (and those who publish, distribute or otherwise make it useful or accessible) should receive fair compensation for their training, labour and material costs. Most also agree that consumers may reasonably be charged fees for the use of intellectual works to cover the costs, if any, associated with production and use. What *is* at stake is the appropriate form of compensation, specifically: (1) whether the creator has a distinct rights-based claim to exclusive control over her works' use, distribution and price; and (2) whether, rights aside, granting creators this exclusive control is for other reasons the optimal form of compensation. Opponents of strong intellectual property protections advocate using alternative mechanisms that afford financial compensation and recognition to creators without also granting strong control to private parties over the price and use of works. Creators could instead be compensated through salaries, stipends, or through more complex methods that are sensitive to the level of use, such as compulsory licensing systems or taxes on ancillary products used for making copies such as blank CDs. Compulsory licensing, the system that governs the recording of musical covers, allows anyone to use a work but requires payment of a nominal set fee per use; this access fee is set at a non-prohibitive level to encourage use while providing fair compensation to providers. Such systems prise apart compensation for labour from private discretionary control over works, facilitating freer use of these works.

Thus, the central justificatory issue about intellectual property is whether private parties should have monopoly control over these resources for significant periods of time. Of most interest are private legal rights: to have broad (and sometimes complete) discretion over the conditions and prices of access to intellectual works; and to control or prohibit the production of a wide range of derivative works.

Lockean Theories

Some regard intellectual property as the most promising application of (loosely labelled) Lockean arguments about property (Locke, [1690] 1994). One popular version of

Lockean property arguments starts from the position that, initially, resources are commonly owned: *ex ante*, no one has any intrinsic claim to any particular resources. An individual may remove resources from the common and privately appropriate them, however, through exerting her self-owned labour merely to grasp or perhaps also to improve them. She may thereby generate a claim over these particular resources so long as she leaves 'enough and as good for others' and does not waste what she takes.

There is a traditional concern that given resource scarcity, private appropriations of *physical* property cannot straightforwardly satisfy the proviso that one leave enough and as good for others, whether to use or to appropriate. Appropriation of intellectual property may seem different. First, one may think that intellectual property does not belong in the original common but comes into existence already attached to individual creators. It may be appropriated even without satisfying the proviso. Many regard some intellectual works, such as science fiction or abstract art (as opposed perhaps to historical works or to chemical processes) as 'pure' creations of intellectual sweat and genius. Because they are unique products of mental labour, their creators are not bound by the limits on private appropriation because those limits only attach to goods that exist, in whole or in part, independently of the appropriator's labour. More sophisticated versions of this argument recognize that certain ideas, e.g. the notion of unconditional love, are part of the common and are not due to any particular mind, but hold that particular expressions of those ideas may be due to their creator, such as Shakespeare's 116th Sonnet. Copyright reflects this distinction between ideas and expressions, protecting only the latter. Second, some may think the appropriation of intellectual works easily satisfies the proviso, whatever their origin or metaphysical status, because their supply is not scarce, unlike the supply of physical resources. Even if *all* intellectual works belong initially to the common, its expanse may be indefinitely vast; perhaps this also enables the permissible appropriation of physical property as well, assuming the different kinds of property are commensurable, since appropriation of physical resources will leave plenty of intellectual property behind for others.

Some take these sorts of considerations to form a strong *prima facie* case for recognizing strong intellectual property rights as an appropriate way to respect or reward creators' valuable labour (Hughes, 1988; Child, 1990; Gordon, 1993; Moore, 1997). Even so (as on all accounts), further questions would have to be resolved, including: whether these rights have indefinite or temporally restricted extension; what sorts of property qualify; whether and why originality, creativity or non-obviousness should be prerequisites for appropriation; whether others may have need-based claims to use some works; and whether there are significant externalities associated with these rights that generate restrictions on their exercise.

One may worry, though, that appropriation is morally more complicated than has been so far suggested: intellectual works should be considered part of the common; they are therefore subject to the proviso that one not appropriate without leaving as much and as good for others; but this proviso is not so simply satisfied.

Why might they belong in the common? Some products may be thought to exist independently of our labour. Therefore, they are a common resource. Some inventions have been independently discovered by different people, after all. Those who regard

expressions as ordered collections of words, or music as ordered collections of notes, may think these sets of words and notes exist independently of any particular person's contemplation of them, although they are unearthed through creative labour. Others observe that even if expressions are pure mental creations, any individual's intellectual product is rarely entirely her own (Hettinger, 1989; Gordon, 1993; Waldron, 1993). Authors build on prior works and cultural influences, whether consciously and explicitly or not. Further, the intelligibility and value of their intellectual products depends partly on others' contributions and cultural features for which they are not responsible. There are also the further issues, familiar from other discussions in political philosophy, about whether one's talents have predominantly social sources or whether, for other reasons, their fruits should be considered social resources. Given the high degree of interweaving mutual influences, some conclude that intellectual products should be regarded as part of our commonly owned intellectual heritage. Just as they are created by borrowing from and reacting to prior materials, so they should be available to others as the raw materials from which to generate new variations and works.

On these views, private appropriations of intellectual products might then be challenged because they remove materials from the common but do not leave as much and as good for others. Not all intellectual works are equal; in some contexts, they may not have adequate substitutes. For example, in many cultural contexts, even at the time of their initial writing, it would be difficult to claim that private appropriation of the Bible or the Koran could be justified merely because others could 'discover' different works such as expressions of astronomical reports and children's stories; there may be no works 'as good' as the perceived directives of God. To take a more quotidian example, in the USA there may be no news resource as authoritative or 'as good' as the *New York Times*; to restrict access to it may, for certain purposes, leave others without a resource as good as what has been appropriated (Gordon, 1993).

A more foundational challenge to the 'Lockean' argument may be mounted (Shiffrin, 2001). So far, we have focused on the fairness of particular appropriations. But no strong positive argument was given as to why intellectual works should be privately ownable at all. Such an argument may be necessary given one understanding of the initial Lockean assumption of common ownership. That starting point need not be interpreted as an assertion about the metaphysics of intellectual works, as being independent of human creation, but rather as embodying a political view about our mutual standing. That each of us has an equal moral claim to resources in which we all have interests may be understood as a manifestation of our equal moral standing. The question of private property, then, is the question how, if at all, can any exclusive claims to goods that are useful to all or many be justified?

If privatization of *some* resources is necessary to make adequate use of them, perhaps it is therefore justified. For instance, one could not make any use of foodstuffs without private appropriation. To deliver nutrition, an apple must be taken from the common and ingested by a single party. In places, Locke seems to suggest that the same may be true for real property; its full and effective use requires agricultural development and controlled manipulation by a single or co-ordinated will. Land could not be put to its full use if it could not be subjected to planned direction and protected from disruption by the uncoordinated use of others. Hence, at least some of it must be

privately owned. On this account, the labour of an appropriator does not provide the justification for the *institution* of private property in a sort of thing; rather, it explains how, given the justification for the institution of private property, one individual rather than another has a claim to a particular piece of property among those forms of property that are appropriately made private.

Intellectual property does not easily fit this framework. As Thomas Jefferson (the first head of the US Patent Office and a Lockean) put the point:

> He who receives an idea from me, receives instruction himself without lessening mine; as he who lights his taper at mine, receives light without darkening me. That ideas should freely spread from one to another over the globe, for the moral and mutual instruction of man, and improvement of his condition, seems to have been peculiarly and benevolently designed by nature, when she made them like fire, expansible over all space, without lessening their density in any point, and like the air in which we breathe . . . incapable of confinement or exclusive appropriation. Inventions then cannot, in nature, be a subject of property. (Jefferson, [1813] 1943)

That is, many uses of intellectual property are 'non-rivalrous': one party's use of the resource need not compete with another's. I can read Austen's *Pride and Prejudice* at the same time as you, but I cannot use a plot of land for a concert at the same time that you use it for quiet meditation. Moreover, simultaneous use of intellectual property often enhances others' use. My enjoyment of a book or a piece of music is often enhanced by others' ability to converse about it, to understand references to it, and to reveal virtues or expose flaws I failed to see. Full, effective use of intellectual property often depends upon mutual, uncoordinated use in a way that differs from many uses of physical property; intellectual property is not merely non-rivalrous but anti-rivalrous. If the argument for privatization of *some* physical property is that exclusive use is necessary for full, effective use, then that justification does not easily encompass many sorts of intellectual property. To the contrary, an interest in facilitating full, effective use would suggest a system of common property in most intellectual works in which anyone could make use of a work – whether to consume or to use to make another work – without the original creator's permission. Original creators might use stronger rights of exclusive control to quash criticism of their work or to suppress imitators whether for reasons of ego or to stifle real or perceived economic competition. These motivations, while often humanly understandable, may impede full, effective use of a work.

At least two qualifications should be registered. First, some intellectual works may require exclusive use for effective use. Works in progress may not come to their full fruition if they are published before the author consents. Unwanted input or exposure may disrupt the creative process. Some works, such as diaries or personal letters, may be intrinsically private; their proper use may be reliably ensured only by affording the author exclusive control over access to them. Second, some worry that overuse may result if intellectual property is left in common. Although most intellectual property is not exhaustible, its overuse could affect its quality (see Landes and Posner, 2003; but see Lemley, 2004). Songs may lose their resonance, poignance or appeal when they are over-played or put to tiresome, repetitive commercial use. But, it is unclear what force such an argument should exert in a free-speech culture. Usually, we do not find

it a good argument for the wholesale restriction of (non-commercial) speech that the speech will annoy some listeners or that they will come to dislike it.

Personality-based Theories

If Lockean justifications falter because of the non-rivalrous and anti-rivalrous qualities of many intellectual works, are there other individual-rights arguments for strong intellectual property rights? Some argue that because intellectual works express authors' personalities and reflect their characters, authors deserve control over them, whether to protect their reputations, their personhood or their communicative activities (Netanel, 1993; Beitz, 2005). Mickey Mouse's creator should be able to block another's portrayal of Mickey as a swashbuckler not because his mental labour gave rise to Mickey, but because either: (a) Mickey represents him and it maligns his character if Mickey engages in crime; or, (b) as part of the general project of developing and maintaining an identity, individuals need to have property over which they exert exclusive control, defining themselves through and against these objects (Radin, 1982), and intellectual works suit these purposes well; or, (c) because, through Mickey, the creator is engaged in a specific communicative enterprise that the additions and transformations of others may distort or alter (*Walt Disney Productions* v. *Air Pirates*, 1978).

Personality-based arguments are associated with 'moral rights' legislation and rights of publicity. Mickey's mischief may reflect on his creator, so perhaps he should have a tight rein on Mickey's shenanigans. It might be asked, though, why the creator's reputational interests cannot be satisfied instead by merely directing that 'off-licence' transformative works be clearly labelled as 'non-authorized' by the original creator. In any case, such considerations do not provide much support for allowing the creator to *transfer* rights of control to others whose reputation and character are less bound up with Mickey. These arguments also suggest a shorter tenure than copyright currently provides. Terms that extend long past the author's life fit awkwardly with the argument that one needs control over property in order to develop and assert one's personality publicly. True, we do care about the reputations and the communicative intentions of the dead, but they may not provide sufficient reason to impede the expressive, personality-building opportunities of the living.

More generally, personality defenders of strong intellectual property rights must explain why priority should be given to the expressive interests of original creators over others (and for how long). Others may wish to express themselves through the unimpeded use of intellectual works. Effective self-expression may require or be significantly facilitated by using culturally familiar icons like Mickey, whether critically, creatively, or just by reference. Although creators of non-published works may have understandable privacy concerns that may support strong control over their works, authors of published works occupy a more precarious position. They introduce works into the public sphere that may have a strong influence on others' lives and personalities. Why may they attempt both to exert an influence on others *and* to retain strong control over how their audience deploys its own agency and expression to use these materials in response?

Incentives

Another prominent justification for intellectual property rights appeals to the general social interest in facilitating innovation and expression. Some contend that intellectual property rights provide authors and innovators with necessary incentives to create. The initial production process can be arduous and costly; once a work is created, though, it is often relatively easy and inexpensive for others to copy and use the work. This makes it easy for competitors (and consumers) to 'steal' a work and undercut the creator's price. This vulnerability may deter creators from generating intellectual works. Offering periods of monopoly control may offer potential producers the incentives of secured profits and control over works that may compensate for these risks.

This argument depends on often repeated, but ill-studied, empirical claims about the need for, and overall net effect of, these particular incentives on the climate of intellectual property production and consumption (for doubts, see Heller and Eisenberg, 1998; Barnett, 2004). It is important, again, to distinguish the desire to recoup costs and to compensate for production from the more specific desire to exert monopolistic control, whether for maximal profit or power. The incentive argument must apply specifically to the latter if it is to provide a justification for strong intellectual property rights. (For an argument preferring market incentives to patronage and state subsidies, see Netanel, 1996.)

Some wonder whether granting a monopoly generates the best set of incentives for production and consumption, because monopolies hamper competition and other productive uses. One may also worry that the incentives argument underappreciates the degree to which many write and innovate for reasons other than money or power, including a native sense of curiosity and interest, the aim to create art, the urge to engage in self-expression and communication with others, the interest in prestige and acclaim, and the general interest in helping others and improving the world. Many inventors and writers, including the Shakers, Martin Luther, Benjamin Franklin, and many academic authors, have created and made their works freely available for pleasure, to serve others and for the other joys of sharing intellectual advances. In some circumstances, financial incentives may even diminish creativity (Hennessey and Amabile, 1998). (The incentives account may, however, better describe the profile of publishers and manufacturers whose collaboration with creators is often essential. The internet, however, has enabled some viable alternative forms of publication, distribution and co-operative collaboration.)

The diversity of motives for creation may generate problems for strong versions of the incentives argument's claim that a monopoly to creators provides *necessary* incentives that in turn generate the optimal environment of innovation and public use. Affording monopoly control to many authors and inventors may be unnecessary and suboptimal. It may grant economically inefficient and stultifying windfall powers to creators that merely serve as obstacles to consumers and other potential creators who would benefit from freer or cheaper access (Shavell and Van Ypersele, 2001). First, many innovators who would not require incentives of this strong sort to create may still take advantage of them if they are offered. Jeff Bezos, founder of amazon.com, reports that Amazon would have developed the '1-click' technology whether or not it

was patentable, although Amazon took out a patent on it nonetheless (Lessig, 2001a, p. 211). Further, if enough take advantage of monopoly rights, an environment may be created in which others must as well, whether they would like to or not, in order to remain economically competitive and to remain attractive to necessary partners – e.g. publishers and manufacturers who will demand transfer of these rights.

Second, even where these incentives are necessary for some creators, they function in ethically questionable ways (see Cohen, 1992 on incentive arguments generally). They do not merely provide a carrot for a person to create a work rather than engaging in leisure or another activity. Rather, one party, who I will call the *upstream speaker*, is incentivized to produce by the fact that other parties, the *downstream speakers*, are deterred from copying, performing, producing and distributing both extant intellectual works and also new, transformative, derivative works. In the case of copyright and the derivative works protection, according to the incentive argument, expression is suppressed because its suppression is the precondition of another party's willingness to engage in expression (Tushnet, 2001).

This structure provokes some distinctive free speech concerns, representing only one of the many fruitful points of contact between free speech theory and intellectual property theory. First, suppose it is true that upstream speakers, in essence, require, as a condition of their speaking, that downstream speakers be suppressed. Is it permissible to suppress downstream speakers for this purpose? Second, if it can be permissible, *should* we prefer the upstream speakers over the downstream speakers? In some contexts, the answer to the first question seems straightforwardly 'no'. For instance, our commitment to free speech precludes suppressing a controversial speech because a hostile audience wishes it to stop; we should not accede to their demands, even should audience members threaten violence if their demands are not met. A free speech system must permit unpopular speech, whether the state or members of the public oppose it. Should it really make a difference if hostile audience members, instead of threatening violence, allowed that they were more likely to speak if the speakers they disliked were silenced?

Perhaps copyright differs. Typically, the upstream speaker does not respond to the incentive of others' suppression because she is hostile to the *content* of their speech but because their speech putatively threatens the economic returns to her original. (Some copyright enforcement, however, *is* directed at particular content disfavoured by the original author, whether because it is critical of the original or for other reasons. Using copyright, Hitler successfully prevented Alan Cranston, later a Senator, from distributing a more accurate translation of *Mein Kampf* than Hitler wished the English-speaking world to see; Netanel, 2001.) In such cases, does the economic motive for suppresion make all the difference? Is it legitimate to suppress one party's speech because its appreciation will make another party's speech less profitable? That principle seems overbroad, impinging on the ability to write critical reviews. Perhaps what matters is that some speech reduces profits by *competing* directly with the original speech, rather than, like a review, *convincing* people not to purchase the original speech. Regulating the former may seem innocuous, comparable to restricting hecklers from using megaphones to drown out an invited speaker. But copyright regulations do not merely suppress speech on certain occasions to make the original speech easier to understand on those occasions; rather, they suppress others' speech in *all* contexts for a prolonged period of time.

Even if suppression can sometimes be permissible on these grounds, what reason do we actually have to prefer the upstream speech over the downstream speech? Is this question idle because the downstream speech depends for its existence on the upstream speech? For, either we have no speech or we have the original, upstream speech. But this is an exaggeration. We can divide original creators into three categories: (a) those who will create (and publish and distribute) without requiring or using intellectual property protections; (b) those who would create without intellectual property protections but will take advantage of them if they exist; or (c) those who will not create without intellectual property protections and will enforce them if they exist. Incentive arguments favour the speech of those who fall in category (c) at the expense of those who would produce derivative works of those who fall in category (b) (as well as those who would produce derivative works of (a) but are deterred from creation because they are unsure whether the original creators fall into category (a) or if they fall into the more unsafe categories (b) and (c)).

Why should we privilege speakers in category (c) who require intellectual property incentives over the downstream producers whose work will be chilled? It is difficult to decide on sheer grounds of quantity. It's awfully hard to know who falls in category (b) and who falls in category (c) because it serves the financial interests of those in category (b) to bluff. Further, it is difficult to assess how many downstream speakers are chilled by copyright.

One may be tempted to prefer original works over derivative works on grounds of quality; an original work may be considered more precious or significant. It is hard to assert this with broad confidence, though. Many derivative works improve dramatically on original works or take off in an entirely different creative direction. Think of *Macbeth* and *King Lear* as against Raphael Holinshed's *Chronicles of England, Scotland, and Ireland*; the film *Pirates of the Caribbean* as against the theme park ride; the Peggy Lee song 'Is That All There Is?' as against the Thomas Mann short story 'Disillusionment'; Negativland's 'The Forbidden Single: A Cappella Mix' as against U2's 'Still Haven't Found What I'm Looking For'; etc. Given the vast range of potential works, it seems difficult at best to predict which class is superior: upstream works as a class or downstream works as a class.

One might return to what many find an irresistible thought, namely that the original producers are more deserving. Their work is the catalyst and should be privileged over downstream, derivative speech. But note that by reintroducing the idea of desert, the putatively independent incentives argument for copyright protection would now depend on vindicating the previously discussed non-consequentialist arguments.

A further worry may be raised. It is not clear that the relevant upstream speakers who require incentives are more deserving than those creators who would be chilled by copyright. We are attempting to decide whose work to elicit – those who will only speak if they are guaranteed a monopoly versus those who would be suppressed by the monopoly. The former threaten to speak only if the latter do not; by hypothesis, the latter make no similar demands on others' speech. One might hazard that the downstream producers are more deserving because they act more co-operatively. They are willing to speak without making the ability to compel others' silence a condition of their speech.

Freedom of Speech and Related Objections to Intellectual Property Protection

As this discussion amply demonstrates, free speech issues permeate intellectual property arguments. There are yet further connections between freedom of speech and intellectual property. Some assert strong individual free speech rights against certain forms of intellectual property protection, whatever the strengths of its justifications. Copyright powers that forbid others from performing a play, quoting lengthy passages from a book or creating a new derivative work enable private parties to suppress or punish others' speech. Some take the view that however innocent the purpose of these restrictions, they violate the uninfringeable rights of all individual speakers to express whatever content they wish (Baker, 2002; Rubenfeld, 2002; but see Eisgruber, 2003). Others worry that strong intellectual property rights may enable private parties to constrain the social communicative environment, thereby threatening our interests in a flourishing democracy of timely, responsive, free exchange, evaluation, and critical reflection (Netanel, 2001; Lessig, 2001b; Benkler, 2003; Balkin, 2004).

On the other hand, many copyright advocates argue that these legitimate free speech concerns can be comfortably accommodated within copyright (Nimmer, 1970). Copyright only precludes the copying and distribution of particular expressions, e.g. particular books or articles. It does not permit anyone to own an idea. Anyone may communicate an idea so long as they use their own words (or those for which they receive permission). (Derivative works raise knotty questions for this distinction because they are not mere copies of the original expression. Yet, they are somehow to be conceived as extensions of that expression rather than different expressions of the original's underlying idea.) Further, most copyright systems include rights of fair use: roughly put, they allow others to use small portions of copyrighted work, e.g. to quote for purposes of commentary, criticism or education, so long as the use does not displace the market for the original material. Some defend fair use rights on the grounds that even if creators have special rights to their own work, they also have responsibilities to their audiences to allow them to use the works to prevent any harm associated with exposure to them or, more broadly, to permit them to fully digest these materials (Gordon, 1993; O'Neil, 2006). The accommodations within copyright still seem insufficient to some free speech advocates. Those who are not articulate or creative have significant interests in self-expression and participation in public dialogue; these interests may be better advanced through endorsing and using others' exact expressions as a vehicle rather than making clunky efforts of one's own (Tushnet, 2004). Ongoing issues in copyright, then, include what sort of use and how much must be allowed to be fair and whether fair use rights can ever be sufficient to satisfy free speech interests.

Other Issues: Illegal Downloading etc.

I have been discussing whether institutions of intellectual property rights are just. Do the objections made to them, if sound, provide moral support for individuals who wish to download or copy legally protected materials without permission? Illegal copying of

music and videos for pure consumption (and resale) are, it is said, widespread. Some copy purely for profit or convenience, without much ethical deliberation. Others act more deliberately on the grounds that copyright law or its use are unjust – whether because copyright intrinsically violates free speech rights or because copyright holders, in practice, overcharge or wrongfully restrict use of copyrighted material.

These activities raise interesting issues about when one may violate a law one regards as unjust. Consider sheer downloading just for consumption. Most who regard copyright as unjust, in essence or in practice, nonetheless affirm that creators of intellectual property (et al.) deserve some compensation. Most who download would admit they are free-riding off the producers and the consumers who do comply. May one free-ride when one's reason is that the system of production and distribution of an important good is itself unjust and there is no easily accessible alternative mode of access?

Were disagreement with institutional approaches to social problems sufficient grounds for disobedience, no political system that relies on mutual compromise could thrive among free-thinking people. On the other hand, disobeying deeply unjust political decisions such as racially discriminatory laws is often well justified. How should we regard illegal downloading?

If the downloader's objection centres on the prices of intellectual products, the situation resembles more general dissatisfactions with high prices set by owners of capital. However, it seems questionable to take and refuse to pay the grocer for an unreasonably priced litre of Coca-Cola, especially if one could agitate politically within a functional political system for price controls, freer trade or other methods to ensure fairer terms of exchange. Perhaps it is wrong to take the Coke because the grocer will lose the sale and what she paid for it. By contrast, illicitly downloaded intellectual property does not preclude bona fide consumer sales of the same property to willing, paying consumers. Still, other things equal, it seems wrong to stow away on an empty bus that overcharges, even if the stowaway will not increase operating costs or displace paying passengers.

Perhaps matters differ if the price were so high that it interfered with people's ability to fulfil basic needs, e.g. if the beverage were scarce water or milk, or the bus were the sole means of transportation. Is intellectual property like scarce milk or water? Those who regard intellectual property as common property, or expression and communication as basic human needs, may view high charges on intellectual property as akin to commandeering the public well and charging high prices for (publicly owned) water. Some may distinguish between communication for pure entertainment from communication of (other) socially, politically or personally significant facts or opinions. Illicit downloading of the latest Jackie Chan action film may differ from photocopying readings for purely educational use or downloading 'Eyes on the Prize', the seminal documentary series about the civil rights movement, long unavailable due to obstacles posed by copyright (Brown and Harris, 2005). Others resist this idea, pointing out that many intellectual products have rough substitutes. A particular product's underlying idea may be otherwise expressed; other means and works may be found or generated for entertainment and education.

Two further contrasts between illicit downloading and historical forms of civil disobedience may be drawn. First, even if illicit downloading of (some) intellectual works importantly differs from mere free-riding for convenience, it nonetheless inflicts

disadvantages on some relatively innocent people, e.g. those whose work may not get distributed or produced because the systemic costs of free-riding reduce production of riskier works, and those paying consumers whose costs are higher because some free-ride. By contrast, many of those disadvantaged by civil disobedience to apartheid and Jim Crow laws were either more actively complicit in or benefited by the system of injustice. Second, simultaneous efforts to effect political change have standardly accompanied conscientious civil disobedience. Some illicit downloaders download as a form of public protest while actively pushing for reform – e.g. shorter, more permissive periods of intellectual property protection or alternative methods of funding production and distribution. Others, though, merely download for convenience on the grounds that the current system is unjust but do not make efforts towards a larger permanent solution. (Although, sufficiently widespread indifference to the rules may itself engender enough disrespect or despair over their inefficacy to trigger or facilitate others' efforts at social change.)

This raises the interesting question: can it be a sufficient reason to disobey the law that it is unjust, even when there are relative innocents who are (sometimes only mildly) disadvantaged, or must one also participate in positive efforts to establish a just solution? Others create unauthorized derivative works but make these works freely available to others for consumption and further transformative use. These and other practices of reciprocity nicely pose the question of whether it makes a difference to the permissibility of illicit use that it is not done to gain advantage or seek profit and that one makes one's own work available on the same basis that one takes.

References

Baker, C. E.: 'First Amendment limits on copyright', *Vanderbilt Law Review*, 55 (2002), 891–951.

Balkin, J. M.: 'Digital speech and democratic culture: a theory of freedom of expression for the information society', *New York University Law Review*, 79 (2004), 1–55.

Barnett, J. M.: 'Private protection of patentable goods', *Cardozo Law Review*, 25 (2004), 1251–313.

Becker, L. C.: 'Deserving to own intellectual property', *Chicago-Kent Law Review*, 68 (1993), 609–29.

Beitz, C. R.: 'Moral rights of creators of artistic and literary works', *The Journal of Political Philosophy*, 24 (2005), 330–58.

Benkler, Y.: 'Through the looking glass: Alice and the constitutional foundations of the public domain', *Law and Contemporary Problems*, 66 (2003), 173–224.

Brown, D. L. and Harris, H. R. ' "Eyes on the Prize" mired in money battle', *The Washington Post* (17 January 2005), C1.

Child, J. W.: 'The moral foundations of intangible property', *Monist*, 73 (1990), 578–600.

Cohen, G. A.: 'Incentives, inequality, and community', *The Tanner Lectures on Human Values*, vol. 13, ed. G. B. Peterson (Salt Lake City: University of Utah Press, 1992), pp. 261–329.

Eisgruber, C. L.: 'Censorship, copyright, and free speech: some tentative skepticism about the campaign to impose first amendment restrictions on copyright law', *Journal on Telecommunications and High Technology Law*, 2 (2003), 17–32.

Fisher, W.: 'Theories of intellectual property', in *New Essays in the Legal and Political Theory of Property*, ed. S. R. Munzer (Cambridge: Cambridge University Press, 2001), pp. 168–200.

Gordon, W.: 'A property right in self-expression: equality and individualism in the natural law of intellectual property', *Yale Law Journal*, 102 (1993), 1533–606.

Heller, M. A. and Eisenberg, R. S.: 'Can patents deter innovation? The anticommons in biomedical research', *Science*, 280 (1998), 698–701.

Hennessey, B. A. and Amabile, T.: 'Reward, intrinsic motivation and creativity', *American Psychologist*, 53 (1998), 674–5.

Hettinger, E. C.: 'Justifying intellectual property', *Philosophy and Public Affairs*, 18 (1989), 38.

Hooper, J. W.: 'Two hundred years of innovation and change: lessons from the former Shaker communities', Engineering Management Conference, 2003.

Hughes, J.: 'The philosophy of intellectual property', *Georgetown Law Journal*, 77 (1988), 287–329.

Jefferson, T.: 'The Invention of Elevators (Letter)' (1813), in *The Complete Jefferson,* ed. S. K. Padover (New York: Dell, Sloan & Pearce, 1943), p. 1015.

Landes, W. M. and Posner, R. A.: 'Indefinitely renewable copyright', *University of Chicago Law Review*, 70 (2003), 471–518.

Lemley, M. A.: 'Ex ante versus ex post justifications for intellectual property', *University of Chicago Law Review*, 71 (2004), 129–49.

Lessig, L.: 'Copyright's first amendment', *UCLA Law Review*, 48 (2001a), 1057–73.

—: *The Future of Ideas: The Fate of the Commons in a Connected World* (New York: Vintage Books, 2001b).

Locke, J.: *Two Treatises of Government* (1690), ed. P. Laslett (Cambridge: Cambridge University Press, 1994).

Moore, A. D.: 'Toward a Lockean theory of intellectual property', in *Intellectual Property: Moral, Legal, and International Dilemmas,* ed. A. D. Moore (Lanham, Md.: Rowman & Littlefield, 1997).

Munzer, S. R.: 'Property, patents, and genetic material', in *A Companion to Genethics*, ed. J. Burley and J. Harris (Malden, Mass.: Blackwell Publishers, 2002), pp. 438–54.

Netanel, N.: 'Copyright alienability restrictions and the enhancement of author autonomy: a normative evaluation', *Rutgers Law Journal*, 24 (1993), 347–408.

—: 'Copyright and a democratic civil society', *Yale Law Journal*, 106 (1996), 283–387.

—: 'Locating copyright within the first amendment skein', *Stanford Law Review*, 54 (2001), 1–86.

Nimmer, M. B.: 'Does copyright abridge the first amendment guarantees of free speech and press?', *UCLA Law Review*, 17 (1970), 1180–204.

O'Neil, C.: 'An audience-based defense of copying'. Unpublished manuscript (2006).

Radin, M. J.: 'Property and personhood', *Stanford Law Review*, 34 (1982), 957–1015.

Rubenfeld, J.: 'The freedom of imagination: copyright's constitutionality', *Yale Law Journal*, 112 (2002), 1–60.

Shavell, S. and Van Ypersele, T.: 'Rewards versus intellectual property rights', *Journal of Law and Economics*, 44 (2001), 525–47.

Shiffrin, S.: 'Lockean arguments for private intellectual property', in *New Essays in the Legal and Political Theory of Property*, ed. S. R. Munzer (Cambridge: Cambridge University Press, 2001), pp. 138–67.

Tushnet, R.: 'Copyright as a model for free speech law: what copyright has in common with anti-pornography laws, campaign finance reform, and telecommunications regulation', *Boston College Law Review*, 42 (2001), 1–79.

—: 'Copy this essay: how fair use doctrine harms free speech and how copying serves it', *Yale Law Journal*, 114 (2004), 535–90.

Waldron, J.: 'From authors to copiers: individual rights and social values in intellectual property', *Chicago-Kent Law Review*, 68 (1993), 842–87.

Further reading

Benkler, Y.: 'Free as the air to common use: first amendment constraints on enclosure of the public domain', *New York University Law Review*, 74 (1999), 354–446.

Breyer, S.: 'The uneasy case for copyright: a study of copyright in books, photocopies, and computer programs', *Harvard Law Review*, 84 (1970), 281–355.

Gordon, W.: 'An inquiry into the merits of copyright: the challenges of consistency, consent, and encouragement theory', *Stanford Law Review*, 41 (1989), 1343–469.

Hegel, G. W. F.: *Elements of the Philosophy of Right* (1821), ed. A. W. Wood and trans. H. B. Nisbet (Cambridge: Cambridge University Press, 1991).

Landes, W. M. and Posner, R. A.: *The Economic Structure of Intellectual Property Law* (Cambridge, Mass.: Harvard University Press, 2003).

Lemley, M. A.: 'Property, intellectual property, and free riding', *Texas Law Review*, 83 (2005), 1031–75.

Lessig, L.: *Free Culture: The Nature and Future of Creativity* (New York: Penguin Books, 2004).

Levinson, J.: 'What a musical work is', *Journal of Philosophy*, 77 (1980), 5–28.

Litman, J.: 'The public domain', *Emory Law Journal*, 39 (1990), 965–1023.

Machlup, F.: *An Economic Review of the Patent System* (Washington, DC: US Government Printing Office, 1958).

Moser, P.: 'How do patent laws influence innovation? Evidence from 19th-century world's fairs', *American Economic Review*, 95 (2005), 1215–36.

Rose, M.: *Authors and Owners: The Invention of Copyright* (Cambridge, Mass.: Harvard University Press, 1993).

Schroeder, J. L. 'Unnatural rights: Hegel and intellectual property', *University of Miami Law Review*, 60 (2006), 453–503.

Van Houweling, M. S.: 'Distributive values in copyright', *Texas Law Review*, 83 (2005), 1535–79.

Chapter 37

Just War

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There are three broadly defined positions on the morality of war. The first is pacifism, which holds that it is always wrong for a state to resort to war and always wrong for an individual to participate in war. The second is 'political realism', the view that war lies beyond and is unconstrained by morality. The third, which occupies the broad space between these opposing extremes, is that war is sometimes but not always morally permissible and that there are moral constraints on the conduct of war.

This middle ground between pacifism and political realism is dominated by a tradition of thought known as the 'theory of the just war' that has evolved over many centuries, beginning roughly with the writings of Augustine of Hippo and persisting with remarkable continuity to the present. It is perhaps surprising that the main contributors to the development of this theory have been theologians and jurists rather than philosophers. There is little about the morality of war in the work of the great figures in the history of philosophy, and even today this subject tends not to attract the attention of the most eminent philosophers. One exception is Michael Walzer, whose *Just and Unjust Wars*, published in 1977, has been highly influential.

Although there is substantial continuity within the tradition, there are significant differences between the principles endorsed by the classical theorists, such as Aquinas, Grotius, Vitoria and Suaréz, and the currently orthodox version of the theory. In general, the older writings are concerned more with moral rights, justice, and desert, while the theory that has developed in tandem with international law over the past two centuries is concerned more with the regulation of war in ways that limit its instances and the harm it causes to all affected (Reichberg, forthcoming).

Just war theory is an anomaly in contemporary philosophical ethics by virtue of being widely accepted as essentially correct. Many discussions of the ethics of a particular war simply apply the central principles of the theory in a mechanical fashion, with little or no reflection on whether they are valid or how they should be interpreted (Elshtain, 2003, pp. 59–70). In other areas of ethics, by contrast, there is widespread and intractable disagreement about basic principles. The ethics of war is thus the only area in contemporary ethics in which most people not only assume that there is an acceptable theory but also agree what it is. This is particularly surprising given that the content of the theory is an amalgam of medieval Catholic theology and modern international law.

The central distinction in the theory is between the principles that govern the resort to war (*jus ad bellum*) and those that govern conduct in war (*jus in bello*). There are six commonly recognized principles of *jus ad bellum* and two of *jus in bello*. Each principle states a necessary condition of permissibility. For a war to be permissible, it must satisfy all the requirements of *jus ad bellum*. Similarly, for an act of war to be permissible, it must satisfy both requirements of *jus in bello*.

In the remainder of this chapter, I will discuss each of the just war principles, suggesting doubts about some and offering controversial interpretations of others. I will conclude with a brief reflection on the relation between the morality of war and the law of war.

The least controversial and arguably the most important of the just war principles is the requirement of *just cause*, which is that there must be a sufficient reason for war, a goal or 'cause' capable of justifying the terrible forms of action that war inevitably involves. How is it determined what constitutes a just cause for war? The tradition offers relatively little guidance. The classical writings tend to suggest that one state has just cause for war against another if the latter is guilty of committing, or (on some accounts) imminently threatens to commit, a *wrong* against the former that is sufficiently serious to count as a violation of its rights. Just wars, on this view, must be *reactive*, but need not be *defensive*, since they may also be punitive or restitutionary. According to the contemporary theory, by contrast, the only uncontroversial just cause for war is defence against aggression. This mirrors the insistence in Articles 2(4) and 51 of the United Nations Charter that it is illegal for one state to use military force against another except in 'individual or collective self-defense if an armed attack occurs'.

The shift to the more restrictive account of just cause is one of a number of changes for the worse in the recent evolution of the just war tradition, which is coming under increasing pressure to revert to a more expansive account. The idea that the sole just cause for war is defence against aggression may, particularly during the Cold War, have been salutary in pragmatic terms, but it is wrong as a matter of moral principle and the arguments that have been offered to support it are inadequate.

The menu of possible just causes for war contracted during a period in which the dominant paradigms in international relations and international law held that states were the only significant units whose moral, political, and legal relations were to be regulated by norms and laws beyond those internal to states themselves. States were understood as autonomous individual agents, analogous in relevant ways to individual persons and governed in their relations with one another by principles analogous to the moral and legal principles governing relations among persons. It seems that reflective people have accepted this conception of states primarily because they have attributed great value to the survival and integrity of distinct political communities, assumed that the state is the ideal form that such a community could take, and assumed further that widespread acceptance of a doctrine of state sovereignty would facilitate the survival and integrity of states. Given these assumptions, it is natural to conclude that virtually the only just cause for war against a state is to stop it from attacking and thus from violating the sovereignty of another state – though one may concede, as Walzer does, that a state's sovereignty may legitimately be overridden to stop it from committing the worst types of crime against its own citizens, such as massacre, enslavement or mass expulsion.

An alternative understanding, which has roots in certain classical writings, is that there is a just cause for war if, and only if, the people warred against are responsible for wrongs to others that are of a type sufficiently serious to make those people morally liable to military attack, if that is necessary to prevent or redress those wrongs. To say that they are liable to attack is to say that because they have wronged or threaten to wrong others, they lack a right not to be attacked by or on behalf of their victims, so that even if they would be *harmed* by being attacked, they would not thereby be *wronged* or treated unjustly (McMahan, 2005).

According to this view, there are just causes for war other than defence against aggression. The rectification of wrongs previously committed – for example, the recovery of what was previously lost to successful aggression – may be a just cause, as may the protection of innocent people from threats from their own government. The latter, which is the aim of 'humanitarian intervention', has recently become a potent challenge to the idea that defence against aggression is the only just and legal cause for war. While humanitarian intervention may, in particular cases, be morally objectionable for a variety of reasons – for example, because the ostensible beneficiaries, fearing that the intervening agent would exploit its position of power, do not welcome it – it need not be objectionable because it violates the sovereignty or self-determination of the state against which it is directed. For in many cases of conflict within a state, the state may be so radically divided that there is no single collective 'self' whose self-determination would be threatened by intervention. And in any case the sovereign rights of a state do not include a right to persecute some sector of the citizenry without external interference. When the protection of a people from their government is a just cause for war, state sovereignty is not overridden; it is compromised because the state has made itself liable to attack.

A second principle governing the resort to war is *competent authority*, which insists that war may be initiated only by those who are appropriately authorized to do so. Cynics will find that one reason this requirement has survived in the tradition is that it seems to rule out domestic rebellion and revolution. In the past, theorists of the just war who endorsed the principle were likely to find favour with the political authorities and their versions of the theory were in consequence likely to flourish and survive. But this cannot be the full explanation of the principle's prominence in the theory. A more charitable understanding is that the point is to prevent a people from being taken to war and induced to kill others by individuals who have no claim to represent or to act on behalf of that people. It is illegitimate for people to be committed to war through a process that circumvents whatever mechanisms they have established for expressing their collective will.

It is clearly important in pragmatic terms to subject the resort to war to institutional constraints that involve procedures of authorization. But it is not a necessary condition of just or justified war that it be initiated only by persons who are properly authorized to do so. Suppose the Canadian hordes were to pour across the border, intent on conquering the USA, but that the stalwart militias of Montana were to rise *en masse* in spontaneous opposition. Suppose that the Canadian aggressors had blocked all communication from the federal government to the citizenry, so that proper authorization of war was impossible, but that the opposition in Montana was large-scale, co-ordinated and protracted. This would be a war that failed to satisfy the requirement of competent authority but it would clearly be just.

There are two opposing conceptions of the metaphysical nature of war. According to the first, war is a relation between collectives, usually states. According to the second, war is a complex set of relations among individual persons. The first of these approaches is naturally more hospitable to the requirement of competent authority than the second. In a matter as grave as war, a collective must not become committed to action through a process that circumvents its own institutional mechanisms for the expression of the collective will. But if war is fundamentally a matter of individuals acting in co-ordination to protect their own rights and the rights of others against a common threat, then the members of the Montana militias may together be fighting a just war despite the absence of any higher authorization of their action.

The third principle of *jus ad bellum* is *right intention*, which holds that belligerents may resort to war only for the right reasons. Although the requirement is not often stated this way, what it requires is that war must be intended to achieve the just cause. The just cause may not be exploited as cover for a war motivated by other concerns.

This principle raises difficult questions of interpretation. It cannot plausibly demand that a belligerent have no reason for going to war other than to achieve the just cause. Just as a bystander may permissibly intervene to prevent a mugging both in order to defend the victim and to get a reward, so a state may permissibly go to war, for example, both to defend another state against unjust aggression (a just cause) and to secure whatever profits are to be had from defeating the aggressor (not a just cause). Right intention thus has to permit *some* intentions other than to achieve the just cause, but it is unclear what the limits should be. The aim of securing a profit is not a just cause for war but it is also not an unjust aim. What should right intention imply about a case in which a state goes to war intending to achieve both a just cause and an ancillary aim that is unjust?

I will put this interpretive question aside in order to note a related challenge to the plausibility of the principle itself. Suppose that a state has an important just cause for war to which it is wholly indifferent. It wants to go to war, however, to achieve an aim that is either neutral or unjust. If it goes to war, it will not intend to achieve the just cause but will nevertheless achieve it as a side effect of pursuing the neutral or unjust cause. Suppose, finally, that the just cause cannot be achieved except by this state's going to war and that the achievement of the just cause would greatly outweigh any bad effects of the state's pursuing the neutral or unjust cause. Is it permissible for this state to go to war?

Moral philosophers are deeply divided on the general question of the relevance of intention to the permissibility of action. Some, perhaps now the majority, argue that permissibility is determined by the reasons there are for or against action, not by what the agent's mental states happen to be. These philosophers claim that it is permissible for the state to go to war in the conditions described, even though it would do so for the wrong reason, or with a bad intention.

Other philosophers continue to defend the traditional view that an act done with a wrongful intention is for that reason wrong. It may seem implausible, however, to say that it is impermissible for the state to go to war when that is the only way that an important just cause can be achieved, just because the state's intention would be bad. What matters is whether the just cause is achieved, not what transpires in the minds of the state's political leaders.

This challenge misinterprets the view that intention is relevant to permissibility. The defenders of this view do not claim that the state in this case must not go to war. They may, indeed, claim that it is not only permissible but even morally obligatory for the state to go to war, *with an acceptable intention*. It is not the case that the only alternative to going to war for an unacceptable reason is not to go to war at all. If, moreover, the state simply will not go to war except for a bad reason, it seems permissible for others to encourage it to go to war for that reason in order to ensure that the just cause will be achieved. When the state's wrongdoing consists only or primarily in its acting with a wrongful intention, others may exploit its wrongdoing in the service of a just cause.

It has seemed to many people that the question of intention can be easily solved by recognizing that intention is indeed morally relevant – but only to the evaluation of agents, not to the permissibility of action. On this view, the leaders of a state who achieve a just cause but for bad reasons may act permissibly but nevertheless be bad people. This, however, does not seem an adequate response. The morally significant difference between acts of terrorism and acts of war that kill innocent people as a side effect of attacking military targets is that terrorists kill innocent people intentionally, as a means of achieving their aims. But even – or perhaps especially – if the terrorists' ultimate aims are no worse than those of the soldiers, what we want to say is not so much that the terrorists are bad people but that their action is wrong.

The fourth principle of *jus ad bellum* is *last resort*. This does not literally claim that war is permissible only if all less destructive means of achieving the just cause have been tried and have failed. Rather, it means that war must, in the circumstances, be necessary for the achievement of the just cause – hence a better label would be the 'requirement of *necessity*'.

Some requirement of this sort is clearly plausible. It would be wrong to go to war if there were an equally effective but peaceful means of achieving the just cause. Yet this principle requires extensive interpretation. This is because different options may have different probabilities of achieving the just cause, or might achieve the just cause with varying degrees of completeness. Suppose, for example, that there is a just cause, that immediate resort to war offers a 90 per cent chance of achieving it with complete success, but that there is also a peaceful alternative that has a 30 per cent chance of achieving it, though not quite so fully as war would. Is war necessary? Not, perhaps, if there is no cost to trying the peaceful means; in that case the peaceful means ought to be tried. But suppose that if the peaceful means is tried and fails, the probability that war can succeed will have been reduced to 60 per cent. If, in these conditions, war is said to be unnecessary because there is a potentially effective non-violent alternative, many will conclude that the requirement of last resort, or necessity, is not a plausible requirement.

There is another ground for scepticism. Suppose that a state has a just cause for war (for example, the defence of a weaker state against unjust aggression), that it could pursue this just cause either by war or by non-belligerent means, and that both means have the same probability of being completely effective. Suppose, however, that the peaceful means would require even greater sacrifices than war (for example, great economic costs), while war promises certain compensations (for example, the ability to force the aggressor to pay appropriate reparations). Suppose that only this state has the power to achieve the just cause and that it would be better, from an impartial point of view, for the state to fight the war than to allow the just cause to go unachieved. But

suppose, finally, that the state is not morally *required* to pursue either means of achieving the just cause and that it will not pursue the peaceful means because it is against its interests to do so. The requirement of necessity implies that it is not permissible for this state to go to war; yet that seems wrong.

The fifth principle of *jus ad bellum* is *proportionality*, which holds, roughly, that the relevant good effects a war can be expected to achieve must be sufficiently important to justify causing the relevant expected bad effects. As in the case of the requirement of necessity, there are clear cases of wars that this principle rules out: for example, a war fought to defend possession of an insignificant piece of territory would be disproportionate if it had a significant probability of escalating to nuclear war. But here too there are difficult issues of interpretation.

One may wonder, for example, whether good effects that a war could be expected to have that are not part of the just cause can nevertheless count in the proportionality calculation. Suppose that a country is being unjustly attacked and that we could successfully defend it. If we go to war, this would stimulate our economy. Many people think that the stimulation of our economy is not a good effect that should count in the proportionality calculation (Hurka, 2005, pp. 39–45). One explanation of this view is that if economic benefits can count in the proportionality calculation, they are then contributing to the justification for war; but that seems to presuppose that the achievement of economic benefits is a just cause for war, yet that is false (McMahan, 2004, pp. 708–18). This entire line of argument is, however, mistaken. It is true that the stimulation of our economy is not a just cause for war. But that means only that it is not a goal that may intentionally be pursued by means of war. It could still count in the proportionality calculation as an unintended good effect that offsets unintended bad effects. (I am indebted here to Joshue Orozco.)

There are, in fact, two distinct proportionality requirements that a just war must satisfy. One applies to the harms that would be intentionally inflicted on unjust adversaries as a means of achieving the just cause. The harms inflicted on wrongdoers must be proportionate to the wrongs for which they are responsible. In this calculation, the only good effects that count are those involved in the achievement of the just cause. But the way in which they weigh against the harms intentionally caused to those who are liable is not simple. If, for example, it is necessary for just combatants (those who fight in a just war) to kill 1,000 unjust combatants (those who fight in an unjust war) to prevent them from killing 100 innocent civilians, that defensive action would be proportionate. The unjust combatants' responsibility for the unjust threat they pose makes them liable to a collective harm that is greater than the one they would otherwise inflict.

The second proportionality requirement applies to harms that we would unintentionally inflict on innocent people as side effects of our military action. This proportionality calculation involves a more straightforward balancing of good and bad effects. If, for example, our going to war to defend a country against aggression would unintentionally cause economic harm to a neutral country, that could be offset if the war would also cause comparable economic benefits to another neutral country. In this proportionality calculation, all good and bad effects of our action count.

These claims may be more compelling if we consider analogues at the individual level. If the only way you could prevent a person from unjustifiably bruising you would

be to kill him, you would have to allow yourself to be bruised, for to kill him would be disproportionate. But if you faced a threat of death from twenty unjust attackers, it would not be disproportionate to kill them all if that were necessary to save your life.

The sixth and final requirement of *jus ad bellum* is that there should be a *reasonable hope of success* in achieving the just cause. The idea here is that if a war would be genuinely hopeless, it would be wrong to expose one's own citizens, combatants and non-combatants alike, to the risks of war, and perhaps wrong to harm enemy combatants, who are often not to blame for their unjust war, for no good reason. Yet to the extent that this requirement is plausible at all, it seems redundant; for if there is little chance of achieving the just cause, there will be little expected good to weigh against the expected bad effects of war, in which case war would be disproportionate.

There is, however, some reason to doubt that a reasonable hope of success is necessary for a war to be just. For intuitively it seems permissible, for example, to resist unjust aggression even if one cannot hope to avoid defeat. Defiant resistance seems permissible when the alternative is meek submission, even if the only difference it would make to the outcome would be to increase the number of casualties. (I refer here only to voluntary resistance. It would not be permissible for a government to demand that its citizens sacrifice themselves in a gesture of defiance against their own will.)

If a hopeless war of defence could be permissible, does this show that satisfaction of the proportionality requirement cannot be a necessary condition of a just war? Perhaps; but one could argue that even hopeless defiance involves an assertion and defence of people's *dignity* in circumstances in which it would otherwise be lost along with their political self-determination, and that the defence of dignity is sufficiently important to outweigh the harms inflicted on aggressors, which are in any case discounted in the proportionality calculation because of the aggressors' liability to defensive attack.

This defence of the proportionality requirement may seem intuitively plausible, yet it presupposes that the defence of dignity can be a just cause for war – one that can carry the full weight of justification when the just cause of national defence cannot be achieved. It also assumes that the assertion of dignity can outweigh – that is, matter more than – the lives of a large number of people, many of whom may be hapless conscripts who bear little responsibility for the threats they pose.

These are questionable assumptions. But the issues are too large to be settled here. Let us turn in the remainder of this brief chapter to the principles of *jus in bello*. These principles are almost universally held to be independent of the principles of *jus ad bellum*. This 'independence thesis' implies that a war may be just yet fought in an unjust manner, or unjust yet fought in a manner that is just or, in Walzer's words, 'in strict accordance with the rules' (Walzer, 1977, p. 21). These rules, which govern the conduct of war, are held to be neutral between just and unjust combatants and to be equally satisfiable by either. Just and unjust combatants have the same moral status – the same rights, immunities and liabilities. Walzer refers to this as the 'moral equality of soldiers', though 'moral equality of combatants' is more accurate.

According to the moral equality of combatants, unjust combatants do not do wrong merely by fighting in an unjust war. They do wrong only if they violate the rules of *jus in bello*. It is, however, difficult to see how this could be right. A war consists of the individual acts of those who fight it. Sometimes the character of a whole can be different from the characters of the constituent parts, but it is hard to see how a war as a

whole could be impermissible when all the individual acts of which it is composed are permissible.

Notice, too, that unjust war involves the killing and maiming of just combatants, who do not lose their moral rights merely by defending themselves and others against unjust attack. They are, therefore, innocent in the relevant sense, which is given by Walzer when he writes that '*innocent* [is] a term of art' that we apply to people to indicate 'that they have done nothing, and are doing nothing, that entails the loss of their rights' (Walzer, 1977, p. 146). Just combatants are therefore innocent in the relevant sense. Normally it is wrong to kill innocent people even as a means of achieving a goal that is *just*. How, then, could it be permissible to kill such people as a means of achieving goals that are *unjust*?

It seems, therefore, that unjust combatants cannot have the same rights and permissions in war that just combatants have. If that is true, the independence thesis cannot be correct.

The two main requirements of *jus in bello* are discrimination and proportionality. Just war theorists have obviously assumed that unjust combatants can satisfy both. It is obvious, for example, that unjust combatants can satisfy the principle of discrimination as traditionally understood, which holds that while it is permissible to attack combatants, it is not permissible intentionally to attack non-combatants. The principle is, indeed, often given another label – the 'principle of non-combatant immunity' – that presupposes this traditional interpretation. But in its generic form, the principle of discrimination is simply the requirement to discriminate morally between legitimate and illegitimate targets, intentionally attacking only the former. Among persons, legitimate targets are those who are liable to attack, who have done something 'that entails the loss of their rights'. But, as we have just seen, it is not plausible to suppose that just combatants lose their right not to be attacked merely by engaging in self- or other-defence against unjust attack. Just combatants are therefore illegitimate targets. It follows that unjust combatants cannot satisfy the requirement of discrimination, since they have no legitimate targets. (The claim that the relevant distinction for purposes of discrimination is not the distinction between combatants and non-combatants raises the question whether some non-combatants may be morally liable to attack. But there is no space to pursue this difficult issue here.)

Consider next the *jus in bello* requirement of proportionality, which holds that the expected good effects of an act of war must be sufficiently important to justify the harms it would inflict – principally the foreseeable but unintended harms it would inflict on the innocent. But if there is no just cause, acts of war by unjust combatants will have effects that, from an impartial point of view, are almost exclusively bad.

And any good effects they might have cannot weigh against the harms that unjust combatants intentionally inflict. One cannot justify the intentional infliction of wrongful harms by pointing out that one's action also has good side effects.

It seems, therefore, that acts of war by unjust combatants can be neither discriminate nor proportionate. It follows that unjust combatants act wrongly by fighting in an unjust war and that neither the moral equality of combatants nor the independence thesis can be correct. There is usually, however, considerable uncertainty about whether a war is just. This makes the application of principles that distinguish between just and unjust combatants quite difficult in practice. In particular, to hold unjust

combatants liable to punishment merely for participating in an unjust war may be both unfair and counterproductive. Since, moreover, unjust wars will continue to be fought, it is vital that those who participate in them, particularly those who believe or suspect that their cause is unjust but will continue to fight nonetheless, should feel themselves bound to respect certain rules and to obey certain constraints. It is, in other words, of the utmost importance to regulate and constrain the unjust wars that will inevitably occur.

To achieve this goal, we need more than a moral theory that implies that all participation in an unjust war is wrong. We need conventions and laws that apply neutrally to just and unjust combatants alike and that can be obeyed even by unjust combatants who recognize that their war is unjust. Unlike the principles of the just war that are non-conventional in nature, these principles must be designed, not discovered, and their point is not to express the demands of justice but to limit and contain the violence of war.

The tendency in just war theory over the past century has been towards convergence with the international law of war. If I am right, however, the theory of the just war has been moving in the wrong direction. We should expect substantial divergence between the non-conventional morality of war, which should guide the conscience of the individual combatant, and the laws and conventions that will best serve the aim of limiting and confining the violence of war.

References

Elshtain, J. B.: *Just War Against Terror: The Burden of American Power in a Violent World* (New York: Basic Books, 2003).

Hurka, T.: 'Proportionality in the morality of war', *Philosophy and Public Affairs*, 33 (2005), 34–66.

Kutz, C.: 'The difference uniforms make: collective violence in criminal law and war', *Philosophy and Public Affairs*, 33 (2005), 148–80.

McMahan, J.: (2004) 'The ethics of killing in war', *Ethics*, 114 (2004), 693–733.

—: 'Just cause for war', *Ethics and International Affairs*, 19 (2005), 1–21.

Norman, R.: *Ethics, Killing, and War* (Cambridge: Cambridge University Press, (1995).

Reichberg, G.: 'Just war and regular war: competing paradigms', in *Just and Unjust Warriors: Moral Equality on the Battlefield*, ed. D. Rodin and H. Shue (Oxford: Clarendon Press, 2007).

Rodin, D.: *War and Self-Defense* (Oxford: Oxford University Press, 2002).

Walzer, M.: *Just and Unjust Wars* (New York: Basic Books, 1977).

Chapter 38

Legitimacy

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Together with its kissing cousins 'authority' and 'obligation', legitimacy is a notion that should arouse apprehension. Governments that are legitimate have the 'right to rule', to demand obedience from their citizens or subjects. It is at least partly correct to say that this authority is independent of the content of the laws or commands issued by those invested with it (Hart, 1961), that the authority of a law or command is a reason for obeying it regardless of its contents or their merits. As widely construed, reasons of this kind are conclusive in that they leave those subject to authority with but two choices: either obey the command or disassociate from the political association of which authority is a constitutive feature. Theories of 'passive' and 'civil' disobedience add the third option of disobedience to commands judged to be unjust but on condition of peaceful submission to the penalty assigned (King, 1968).

To concede the legitimacy of government is to accord to some number of persons a right that we otherwise reserve to ourselves, the right to conduct our own lives and affairs as each of us deems appropriate.

Much past and present political philosophy either subordinates the question of legitimacy or implicitly treats its possibility and desirability as philosophically and politically unproblematic. It is widely assumed that politically organized association in which some persons rule others is the divinely, naturally or ontologically ordained state of human affairs. According to one influential version of this view there is a good for humankind that can be realized only in a society ruled by those who know what that good is and how to pursue it. Proponents of this understanding also commonly assume that some number of (changing but in principle always identifiable) persons are divinely or naturally fitted for the task of ruling. On these assumptions a *question* about legitimacy can arise only in the sense that rule by the naturally inferior would be illegitimate.

In the form now most familiar, legitimacy as a distinct issue traces to the seventeenth century, when the above assumptions were challenged by the view that human beings (some among them) are, by nature or before God, free and equal in at least one respect: no human being has natural or divinely ordained authority to rule them. On this picture, the only unproblematic authority is each person's authority over herself. Government of any kind, certainly government with content-independent authority, demands justification. Because from this period forward human beings have

increasingly claimed natural freedom and equality in various further respects, the prospects of legitimate government seem remote. If nature is our standard, and if by nature no person has political authority over any other, the notion of legitimate political authority appears to be on a par with 'square circle'.

Post-seventeenth-century political philosophers have for the most part refused this conclusion. No small number have rejected or narrowly qualified the postulates of natural freedom and equality. Those who profess to accept them have engaged in a spirited but somewhat dispiriting philosophical scuffle over the best way to accord, nevertheless, legitimacy to government.

Those who have accepted these premisses but rejected the attractive but probably unachievable ideal of anarchism have argued for legitimacy along one or another version of the following lines. (Some) human beings have authority over themselves. As indicated by esteemed practices such as promising and making agreements, the freedom this authority licenses allows them to transfer some or all of their authority to others, to authorize others to act on their behalf. When a number of people transfer their natural authority to a government the latter thereby acquires the legitimacy of the former.

After flourishing in the seventeenth and eighteenth centuries, theories of this basic type were attacked and rejected by thinkers of the stature and diversity of Burke, Hume, Bentham, Hegel and Marx. Despite their forceful objections, in recent years consent or contractarian theories have been revived and other arguments for legitimacy have been on the defensive. The objections against consent theory are increasingly regarded as tied to positions more problematic than the view their proponents joined in attacking. Whether due to or a cause of consent theory, the notion that government must rest on the consent of the governed has become an article of political faith, a conviction that much contemporary political philosophy labours to secure.

A major version of consent theory was initiated by Hobbes and elements of his formulation are prominent in the recent work of Michael Oakeshott (1975a, 1975b), in thinkers in the tradition of legal positivism (e.g. Kelsen, 1945) and among rational choice theorists (e.g. Gauthier, 1986; Kavka, 1986). Hobbes ([1651] 1962, p. 164) asserts that all human beings have a 'right of nature' to do whatever they judge necessary to their preservation and well-being. Accordingly, there is 'no obligation on any man, which ariseth not from some act of his own'. Because authority entails obligation, authority can only 'arise' from 'some act' of each person in its jurisdiction.

Despite his avowal of these voluntarist and egalitarian axioms, Hobbes adopts the notorious notion of tacit consent and makes it the basis of government with absolute authority. If other consent theorists have compounded the first difficulty by turning 'consent' into an objective or collective concept, most of them have combated Hobbes's authoritarianism. But the brutal clarity of Hobbes's account of authority assures his continuing relevance and his larger theory has features that merit sympathetic consideration.

Hobbes distinguishes sharply between the authority of a law or command and its wisdom, moral value or other substantive characteristics. His sovereigns are *in* authority but have no standing as *an* authority concerning the questions they decide (Friedman, 1973). If human beings could agree on what should and should not be done there would be no need for government. If they agreed that Jones knows best what

should be done, they would do what Jones says for that reason. We are to obey political authority, 'surrender our judgement' (Friedman, 1973; Raz, 1979; 1986) to those who have it, not because we believe or approve what they say but because we have no reliable basis on which to agree concerning questions that must be authoritatively decided.

The distinction between *in* and *an* authority is central to Oakeshott's (1975b) distinction between two types of regime that he styles civil societies and enterprise associations. Enterprise associations cannot abide a separation between the authority and the substantive merits of law. They consist of persons who share some number of substantive purposes such as conquest, distributive justice, material well-being and the like. When politically organized so that their rules have the standing of laws, those laws are chosen to achieve the agreed objectives and can properly be disobeyed by those convinced that they do not do so. In consequence, such associations are either unstable due to disagreement or become tyrannical teleocracies. By contrast, a civil society postulates and celebrates a diversity of purposes, a variety of incommensurable and often conflicting conceptions and criteria of the good and the right. Its members subscribe to its authority in the hope of maintaining conditions, generically the condition of civility, under which they can pursue whatever purposes they severally happen to have. Authority, 'subscription' to which is the sole constitutive feature of such an association, enforces respect for the 'adverbial considerations' that together comprise the condition of civility. It does so primarily through adjudication, minimally and circumspectly by legislation. Its laws are indifferent to ends and purposes; they do not tell us *what* to do, they tell us *how* we may go about doing whatever we do. In a civil society I have every reason to obey, no pertinent reason to disobey authority.

All known political associations contain fluctuating mixtures of the elements of the 'ideal characters' civil society and enterprise association (Oakeshott, 1975b, essay 3). Insofar as one's society is civil no considerations other than the authority of the law are relevant to the decision to obey it. On the other hand, insofar as one's society is an enterprise association, the authority of a law is *a* reason to obey it, is always relevant to the question whether I ought, all things considered, to obey it. Contrary to strict forms of legal positivism, it cannot 'exclude' (Raz, 1979) considerations of other kinds from decisions about obedience. If a law is purposive, I am warranted in asking whether the purpose is acceptable to me and whether the law serves that purpose.

Hobbes does not use the elusive notion of purely adverbial laws but distinctions analogous to Oakeshott's are prominent in his and numerous contemporary theories of legitimacy. Whether by consent or in some other fashion, we acquire the political status of citizen, a status that carries with it the obligation to obey authority. But this is not our only status, is not the only role we play. We have commitments and purposes that connect with authority, if at all, only in that the latter maintains conditions favourable to enacting and serving them. These further characteristics and concerns (often called 'private') generate reasons for action that can conflict with the reason for obedience provided by our political obligation. Hobbes (1962, esp. ch. 21) dramatizes this point by insisting that each of us retains the natural right to do what we judge necessary for our preservation and well-being (Hobbes attributes consent much too freely, but he is equally liberal in allowing subjects to cancel it or its implications). Because all authority has content-independent qualities, the reason or warrant for

action that this right provides is different in kind from the reason for action that is an obligation. Contrary to utilitarianism, the two cannot be 'measured' on the same scale and neither can 'outweigh' the other. As Hobbes makes clear, they can conflict but cannot cancel one another.

On these versions of consent theory, life in a society with a legitimate government requires its citizens to make an intricate array of quite refined judgements. Neither Hobbes nor Oakeshott is optimistic that these heavy demands can be steadily met, but the prospects are enhanced if we adopt their view that government, while essential, should attempt very few of the activities that governments now routinely undertake.

(These remarks invite comparison with Hannah Arendt's (1958; 1963) anti-contractarian but promise-dependent thinking. The judgements her theory demands are on different dimensions but are no less intricate than those urged by Hobbes and Oakeshott. And she shares their view that legitimate authority and the politics to which it is necessary, while precious, must operate in a carefully delineated domain.)

With the notable exceptions of Rousseau and his contemporary communitarian and collectivist heirs, and of a number of philosophical anarchists who make individual consent a necessary but unsatisfiable condition of political legitimacy (Wolff, 1970; Simmons, 1979; Green [with qualifications], 1988), the elements foregrounded above are present in most post-Hobbes consent theories, particularly those of Locke, Kant and contemporary writers such as John Rawls (1971), Joseph Raz (1979; 1986) and Bruce Ackerman (1980). The works of these thinkers include: the postulates of freedom and equality; the denial of divine or natural authority and the consequent necessity of some form (however attenuated) of consent; the proposition that there are and should be a diversity of conceptions of good and that authority and obligation are necessary in part because of disagreement concerning ends and purposes; the idea that government and law should be neutral among a wide range of (the actively contested) conceptions of the good and otherwise respect the private dimensions of the lives of its citizens. For these influential theorists the foregoing are *among* the components of legitimacy.

These and numerous other self-styled liberal thinkers such as Ronald Dworkin (1977) and William Galston (1980), however, make demands upon or have expectations concerning politically organized society that go well beyond those countenanced by Hobbes or Oakeshott. Government is to use its authority to achieve and sustain a substantive conception of justice (Rawls, 1971; Ackerman, 1980), to encourage 'valid conceptions of the good and to discourage evil or empty ones' (Raz, 1986, p. 133), to inculcate the virtues necessary to a liberal society (Galston, 1980), to provide for the welfare of all of its citizens (Dworkin, 1977).

Perhaps in the hope of diminishing the abuses that Oakeshott predicts when authority is used to pursue enterprise association objectives, these thinkers promote institutionalized limitations on authority (constitutionalism, bills of rights, the rule of law) that Hobbes and Oakeshott oppose because reliance upon them underestimates the contingency of human affairs. They also press for political democracy which Hobbes fears on the ground that it generates excessive power and which Oakeshott accepts as an established feature of his political culture but which he (and Arendt) thinks tends to engender conformism and the tyranny of the majority.

In the specific sense of the legitimacy of government, for these thinkers legitimacy depends primarily on these devices, those of the first kind protecting the 'civil'

character of rule and democracy serving to sustain and invigorate the consent of the citizenry. These theories nevertheless blur the distinction between the legitimacy of government and the justice or goodness of the society more broadly conceived. It is not enough for government itself to be lawful, just or democratic. If society is disfigured by unjustifiable inequalities or other forms of injustice, and if government does not use its authority to combat them and to pursue the ends and purposes mentioned above, the legitimacy of the politically organized society or 'regime' is called into question. These substantive–purposive criteria do not exclude or supplant the formal–procedural criteria (Flathman, 1980) on which Hobbes, Kant and Oakeshott (Locke is an ambiguous case) rely, but because they are independent of one another the former readily conflict with the latter.

In their most pronounced forms these tendencies in recent consent and liberal theory have the further effect of returning the question of legitimate authority to the subsidiary status it had in most pre-modern political thought and has in much contemporary political philosophy. For utilitarians, neo-Thomists, Marxists, communitarians, neo-Aristotelians and rationalists, individual consent, while valuable as a source of political stability and energy, is no more than a symptom of a society that is just, good or right by criteria that are rational, reasonable or otherwise deserve interpersonal standing. Political societies that satisfy such criteria thereby acquire the right to rule, their members thereby acquire obligations to obey and perhaps sustain allegiance to them. Recent theorists of democracy influenced by Rousseau (e.g. Pateman, 1970; Barber, 1984) appear to sustain the independence of the question of legitimacy and to make consent a necessary and perhaps a sufficient condition of it. As a part of substituting the collective or communal consent of participatory or 'strong' democracy for individualist or liberal versions, however, they also follow Rousseau in attaching substantive and moralistic conditions that must be met for the consent to be genuine and to yield legitimacy.

From a strict conceptual perspective, the success of these programmes would signal the end of authority and authority relations. Laws and commands would be obeyed not because some have authority and others corollary obligations but because they are right or good by the standards the theories provide (Green, 1988). From the Hobbes/Oakeshott perspective this is a dangerous and indeed a repugnant fantasy. It is a fantasy because uncoerced agreement on this range of questions will never be achieved or sustained for long. It is dangerous because it emboldens rulers by adding moral zeal to the lust for power and, because it convinces citizens that they ought to submit to requirements and prohibitions for which there is no good reason, burdens dissent and disobedience with guilt and shame. It is repugnant because its effects are invariably to diminish plurality, individuality and freedom.

Analogous but yet more negative assessments of these and earlier ambitious political programmes are provided by thinkers who share the affirmation of individuality and the non-doctrinaire but potent scepticism that pervade the thinking of Hobbes and Oakeshott. Socrates might be mentioned in this connection and early modern opponents of moralistic politics such as Montaigne certainly should be. Friedrich Nietzsche's 'perspectivalism' dramatizes the fantastic character of the notion of a political society harmonized by general, voluntary but rationally warranted acceptance of a common good or right, his genealogies expose the intrusive and coercive character of the regimes

that have claimed this kind of legitimacy, and his avid promotion of a ‘pathos of distance’ from and towards all authority and authorities identifies the political stance he thinks self-esteeming individuals should take towards them (Nietzsche, [1887] 1956; [1906] 1968).

Contemporary deconstructionists and postmodernists have taken the first of these themes to the point of problematizing the possibility not only of legitimacy (e.g. Lyotard and Thebaud, 1985) but mutual intelligibility (e.g. Derrida, 1982; DeMan, 1986). Recent genealogists have disclosed the ubiquitous role of often deeply gendered or otherwise ascriptively based power in human arrangements (e.g. Foucault, 1979; Butler, 1990). And political thinkers who acquiesce in the possibility and necessity of authority have developed recognizably Nietzschian notions into theories of democratic individuality (Kateb, 1984), contestational democracy (Connolly, 1991) and wilful liberalism (Flathman, 1992).

It is not impossible that further development of these and related tendencies of thought will help to realize the best political possibility – anarchism aside – engendered by the postulates of freedom and equality. That would be a political order in which authority is accepted reluctantly, viewed with suspicion if not disdain, used little, disobeyed cheerfully and resisted as necessary.

References

Ackerman, B.: *Social Justice in the Liberal State* (New Haven, Conn.: Yale University Press, 1980).

Arendt, H.: *The Human Condition* (Chicago, Ill.: University of Chicago Press, 1958).

—: *On Revolution* (New York: Viking Press, 1963).

Barber, B.: *Strong Democracy* (Berkeley, Calif.: University of California Press, 1984).

Butler, J.: *Gender Troubles* (New York: Routledge, 1990).

Connolly, W.: *Identity/Difference: Democratic Negotiations of Political Paradox* (Ithaca, NY: Cornell University Press, 1991).

DeMan, P.: *The Resistance to Theory* (Minneapolis: University of Minnesota Press, 1986).

Derrida, J.: *Margins of Philosophy* (Chicago, Ill.: University of Chicago Press, 1982).

Dworkin, R.: *Taking Rights Seriously* (Cambridge, Mass.: Harvard University Press, 1977).

Flathman, R.: *The Practice of Political Authority* (Chicago, Ill.: University of Chicago Press, 1980).

—: *Willful Liberalism* (Ithaca, NY: Cornell University Press, 1992).

—: *Pluralism and Liberal Democracy* (Baltimore, Md.: Johns Hopkins University Press, 2005).

Foucault, M.: *Discipline and Punish* (New York: Vintage Books, 1979).

Friedman, R.: ‘On the concept of authority in political philosophy’, *Concepts in Social and Political Philosophy*, ed. R. Flathman (New York: Macmillan, 1973).

Galston, W.: *Justice and the Human Good* (Chicago, Ill.: University of Chicago Press, 1980).

Gauthier, D.: *Morals by Agreement* (Oxford: Clarendon Press, 1986).

Green L.: *The Authority of the State* (Oxford: Clarendon Press, 1988).

Hart, H. L. A.: *The Concept of Law* (Oxford: Clarendon Press, 1961).

Hobbes, T.: *Leviathan* (1651), ed. M. Oakeshott (New York: Collier Books, 1962).

Kateb, G.: ‘Democratic individuality and the claims of politics’, *Political Theory*, 12 (1984), 331–60.

Kavka, G.: *Hobbesian Moral and Political Theory* (Princeton, NJ: Princeton University Press, 1986).

Kelsen, H.: *General Theory of Law and State* (Cambridge, Mass.: Harvard University Press, 1945).
King, M. L., Jr.: *Why We Can't Wait* (New York: Signet Books, 1968).
Kukathas, C.: *The Liberal Archipelago: A Theory of Diversity and Freedom* (Oxford: Oxford University Press, 2003)
Lyotard, J.-F. and Thebaud, J.-L.: *Just Gaming* (Minneapolis: University of Minnesota Press, 1985).
Nietzsche, F.: *The Genealogy of Morals* (1887), trans. F. Golffing (Garden City, NY: Doubleday Anchor, 1956).
—: *The Will to Power* (1906), trans. W. Kaufmann and R. J. Hollingdale (New York: Vintage Books, 1968).
Oakeshott, M.: *Hobbes on Civil Association* (Oxford: Basil Blackwell, 1975a).
—: *On Human Conduct* (Oxford: Oxford University Press, 1975b).
Ochoa-Espejo, P.: 'The time of popular sovereignty: political theology and the democratic state'. Doctoral dissertation submitted to the Johns Hopkins University, 2005.
Pateman, C.: *Participation and Democratic Theory* (Cambridge: Cambridge University Press, 1970).
Petit, P.: *Republicanism* (Oxford: Oxford University Press, 1997).
Rawls, J.: *A Theory of Justice* (Cambridge, Mass.: Harvard University Press, 1971).
Raz, J.: *The Authority of Law* (Oxford: Clarendon Press, 1979).
—: *The Morality of Freedom* (Oxford: Clarendon Press, 1986).
Sandel, M.: *Liberalism and the Limits of Justice* (Cambridge: Cambridge University Press, 1982).
—: *Democracy's Discontents: America in Search of a Public Philosophy* (Cambridge, Mass.: Harvard University Press, 1996).
Simmons, A. J.: *Moral Principles and Political Obligations* (Princeton, NJ: Princeton University Press, 1979).
Williams, B.: *In the Beginning was the Deed*, ed. G. Hawthorn (Princeton, NJ: Princeton University Press, 2005).
Wolff, R. P.: *In Defence of Anarchism* (New York: Harper Books, 1970).

Chapter 39

Liberty

CHANDRAN KUKATHAS

Such is the rhetorical appeal of the idea of liberty that a variety of political philosophies claim to honour it. Republicans and Marxists, no less than libertarians and liberals, maintain that they and they alone are the true defenders of freedom. The literature of contemporary political theory is thus replete with rival analyses of the meaning of liberty, and disputes about its measurement, distribution and institutional requirements. Our aim here is to gain some understanding of the meaning and the conditions of liberty by working through the thicket of contemporary argument, though we may have to rest content with a better knowledge of the terrain.

The Concept of Liberty

Contemporary discussion of the concept of liberty has been most profoundly shaped by the analysis of Isaiah Berlin. In his essay 'Two concepts of liberty', Berlin argues that, in the history of ideas, liberty has had two quite different meanings or senses. In the first, 'negative' sense of the word, a person is free 'to the degree to which no man or body of men interferes' with his activity. 'Political liberty in this sense is simply the area within which a man can act unobstructed by others' (Berlin, 1979a, p. 122). In the second, 'positive' sense of the word, a person is free to the extent that he is his own master, whose life and decisions depend upon himself and not upon external forces of any kind. A person who is autonomous or self-determining – who is 'a thinking, willing, active being, bearing responsibility for [his] own choices and able to explain them by references to [his] own ideas and purposes' – is 'positively' free (Berlin, 1979a, p. 31).

Whether or not such a distinction can properly be drawn might be disputed. In Berlin's analysis, the contrast is more readily seen if we recognize that the positive and negative concepts of liberty are responses to 'logically distinct' questions. If one asks, 'Who governs me?', the answer will reveal the extent of one's positive liberty: someone who can reply, 'I govern myself', is positively free. If, on the other hand, one asks, 'How far do others interfere with me?', the answer will reveal the extent of one's negative liberty: someone who can answer, 'very little', is negatively free. In general, a person enjoys greater negative liberty to the extent that he is unimpeded or unconstrained by other human agents and can act without being interfered with. On this view, a lack of

ability does not mean a lack of freedom – I am not unfree because I am unable to understand Hegel. However, if my inability is due to human arrangements that obstruct or interfere with me, then I am negatively unfree.

In drawing the contrast between negative and positive liberty, Berlin thinks he has identified an important conceptual distinction. But it is also a part of his concern to criticize positive conceptions of freedom. His criticisms are worth considering because they open up a number of issues which must be tackled in order to come to terms with the notion of freedom. Berlin presents his criticisms in the form of an account of the historical development of the negative and positive notions of liberty. Positive libertarians begin by invoking the harmless metaphor of self-mastery, maintaining that one is free if one is one's own master and a slave to no man. But they go on to suggest that one might equally be a slave to nature, or to one's own unbridled passions, or indeed to one's lower self. At this point, Berlin maintains, they proceed to develop a distinction between two selves: the dominant self, invariably identified with reason and man's 'higher nature', which is also the 'real' or 'ideal' or the 'autonomous' self – the self 'at its best'; and the 'lower', 'empirical' or 'heteronomous' self, which is the self of irrational impulse and uncontrolled desire, 'swept by every gust of desire and passion, needing to be rigidly disciplined if it is ever to rise to the full height of its "real nature" ' (Berlin, 1979a, p. 132). From here it is a short step to claim that the real self may be best understood as something greater than the individual, as a social whole (such as a tribe or a state) of which the individual is only a part. 'This entity is then identified as being the "true" self which, by imposing its collective, or "organic", single will upon its recalcitrant "members", achieves its own, and therefore their, "higher" freedom' (ibid.). This positive libertarian understanding of freedom, according to Berlin, has in this way made it easy to justify coercing people, for the coercion is of the lower self by the higher, and such coercion is deemed not only consistent with but required by freedom.

Berlin is careful enough to concede that even negative libertarians could make such questionable philosophical moves, by maintaining, for example, that only the individual's real or higher self should not be constrained or interfered with. They too might argue that obstructing the individual's actual wishes would better serve his real desires. Nonetheless, Berlin insists, 'the "positive" conception of freedom as self-mastery, with its suggestion of a man divided against himself, has, in fact, and as matter of history, of doctrine and of practice lent itself more easily to this splitting of personality into two' (ibid., p. 134). Indeed, he suggests that 'socialized' forms of the 'positive doctrine of liberation by reason' lie at the heart of many of the nationalist, communist, authoritarian and totalitarian creeds of today (ibid., p. 144).

But these propositions, and Berlin's famous distinction between negative and positive liberty, have not gone unchallenged. Gerald MacCallum, in his almost as famous paper, 'Negative and positive freedom', rejects Berlin's distinction between two concepts of liberty. Freedom, he maintains, is always one and the same triadic relation: 'Whenever the freedom of some agent or agents is in question, it is always freedom from some constraint or restriction on, interference with, or barrier to doing, not doing, becoming, or not becoming something' (MacCallum, 1991, p. 102). Freedom is always *of* something (an agent or agents), *from* something, *to* do or not do, become or not become, something. Any statement about freedom must take the form 'x is (is not) free from y to do (not do) z', where x ranges over agents, y ranges over constraints,

restrictions, interferences or barriers, and *z* ranges over actions or conditions of character or circumstance.

MacCallum does not deny that there might be uncertainty, or even disagreement, about what counts as an agent or about what counts as a constraint or restriction. But this does not alter his view that there is only a single triadic concept of liberty. Thus he rejects Berlin's distinction between negative or 'freedom from', and positive or 'freedom to' concepts of liberty (Berlin, 1979a, p. 131) on the grounds that any statement about liberty is a statement about the freedom of *x from y to z*. Berlin, in a reply to his critics, concedes that the terms 'negative' and 'positive' liberty 'start at no great logical distance from each other', and that the questions 'Who is master?' and 'Over what area am I master?' 'cannot be kept wholly distinct' (Berlin, 1979b, p. xliii). Indeed, MacCallum's understanding of liberty as a single triadic concept has been endorsed by a number of contemporary theorists, including Benn and Weinstein (1971, p. 194), Rawls (1971, p. 202), Feinberg (1980, pp. 3–4) and T. Gray (1990, pp. 11–16).

Nevertheless, others have argued that MacCallum's triadic formula does not capture all there is to the concept of liberty (J. Gray, 1984, pp. 326–7), though there is also disagreement over whether Berlin has in fact distinguished different *concepts* of liberty or merely identified two kinds of *conceptions* of liberty. To some extent the question of whether there are two concepts or one is a matter to be settled by convention. In Berlin's favour it might be said that a distinction between negative and positive liberty has been drawn and widely employed. On the other hand, not all usages of the distinction have conformed to Berlin's original. One common way of drawing the distinction has been as a contrast between the opportunities available to a person (negative liberty) and the capacity or the resources that person has to take advantage of them (positive liberty). As Levin expresses it, 'a man is *positively* free when he is doing what he wants to do, and *negatively* free when no one is interfering with him' (Levin, 1984, p. 85). Rawls (1971, p. 204) suggests that the 'inability to take advantage of one's rights and opportunities as a result of poverty and ignorance, and a lack of means generally' should not be counted as among the constraints definitive of liberty. Instead, he maintains, we should distinguish between liberty and the worth of liberty. But for some proponents of the negative/positive distinction, the correct inference to be drawn from this way of viewing matters is that both opportunities (or negative liberties) and resources (positive liberties) must be viewed as different but equally important dimensions of liberty (Goodin, 1982, p. 152).

Yet while this kind of analysis has been influential, there are other philosophers who have tried to show that a much deeper distinction exists between negative and positive liberty. A particularly influential discussion of the distinction is offered by Charles Taylor, who suggests that negative freedom is usually an 'opportunity concept', while positive freedom is always an 'exercise concept' (Taylor, 1979). In Taylor's analysis, negative liberty is usually an opportunity concept because it suggests that 'being free is a matter of what we can do, of what it is open to us to do, whether or not we do anything to exercise these options'. This is so, he says, with the negative conceptions of freedom employed by Hobbes and Bentham. Positive freedom, however, is an exercise concept because doctrines of positive freedom 'are concerned with a view of freedom which involves essentially the exercising of control over one's life. On this view, one is free only to the extent that one has effectively determined oneself and the shape of one's

life' (ibid., p. 176). The key to Taylor's distinction, as he understands it, lies in the fact that the opportunity concept sees only 'external' obstacles to action as obstacles to freedom. By contrast, to recognize freedom as an exercise concept is to accept that the 'internal' obstacles of the mind, which affect our motivations, our self-control and our capacity for moral discrimination, also affect our freedom (ibid., p. 179).

One problem with Taylor's view is that it is not clear why, for the negative libertarian, only external obstacles count. 'Internal' impediments to action may just as easily be regarded as obstacles that affect an individual's freedom. Physical barriers, legal prohibitions and credible threats reduce my negative liberty since they are impediments or constraints upon my action. But my negative liberty is similarly reduced if I am drugged or brainwashed, or if I am manipulated or deceived into taking particular actions: the 'internal' obstacles reducing my liberty are the false beliefs with which I have been inculcated.

Now, Taylor argues that, once it is conceded that 'internal' obstacles restrict freedom, the negative libertarian is no longer using freedom as an opportunity concept but is using it as an exercise concept. This is because to be free of internal obstacles invariably involves actively 'exercising' freedom by removing those internal barriers (ibid., pp. 177–8). This seems to be a mistake. While removing or surmounting internal obstacles, such as fears or anxieties, involves action, the same is also true of the overcoming of external obstacles. Whether or not activity is required to enjoy freedom is irrelevant. Furthermore, as Baldwin tellingly observes, one might agree that overcoming internal obstacles involves one in action, 'but it does not follow that the freedom thereby attained is more than an opportunity to act' (Baldwin, 1984, pp. 131–2).

Negative freedom, then, I would suggest, is always to be understood as an opportunity concept; but the contrast to be drawn is not between negative liberty meaning the mere absence of external obstacles and positive liberty meaning the active overcoming of internal obstacles. Negative liberty is what an agent enjoys when there are no humanly imposed impediments, internal or external, to action.

There is, however, a further question about the concept of freedom: can we refer simply to freedom as a fundamental good that we can all have more or less of, or does it make sense to think only of specific freedoms – the freedom to speak or the freedom to emigrate, for example? Those who advance the 'specific-freedom thesis' (Carter, 1999, pp. 11ff.) deny that there is any such thing as 'freedom' in itself, and therefore deny that freedom is itself a fundamental good. Freedom is not a commodity to be weighed and measured (Benn and Peters, 1959, p. 214), and it makes no sense, they suggest, to think we can have a right to liberty as such (Dworkin, 1979). Ian Carter, however, has suggested that the concept of 'overall freedom' has been mistakenly rejected (Carter, 1999). The defenders of the specific-freedom thesis have denied that there is any such thing as overall freedom, argued that overall freedom cannot be measured, and concluded that there is no point in measuring overall freedom. If these claims hold, it would make little sense to make statements of the following sort: Alf is freer than Betty; or Britain is freer than China – unless one means by such remarks that Alf or British citizens enjoy specific liberties not available to Betty or people in China. Carter's ambition is to show not only that it makes sense to think in terms of overall freedom but also that freedom can successfully be measured. (For a more recent account of how freedom might be measured see Kramer, 2003.)

Conceptions of Negative Liberty

Among those who conceive of liberty in negative terms there is still disagreement about when an individual can be said to be free. Although all might concur that liberty means an absence of impediments or constraints or interference, there remains the question of what is to count as a constraint which makes us unfree. There are also the questions of who (or what) is the subject of freedom, and what it is that the free subject is free to do. The first of these three questions is undoubtedly the most problematic for an account of liberty, but something should be said about the latter two.

Generally, theories of liberty assume that the subject of freedom is the individual. G. A. Cohen, however, has suggested that there may be good reason to recognize the collective dimensions of freedom and unfreedom, arguing that while members of the proletarian class are held to be free because they are at liberty to leave the proletariat this does not alter the fact of their unfreedom, since they are not free *collectively* or *as a class* to leave the proletariat (Cohen, 1979, pp. 21–5). Under capitalist institutions, even though anyone might rise up from the proletariat, it is not possible for everyone to do so since capitalism requires ‘a substantial hired labour force, which would not exist if more than just a few workers rose’ (ibid., p. 21). This way of viewing liberty is important for Cohen because it bears upon claims made about freedom under capitalism. The position of the proletariat he holds to be analogous to that of a group of imprisoned individuals who have the opportunity for only one of their number to escape. Since *all* cannot escape, even though *each* has an opportunity to do so, the group is collectively unfree or unfree as a class.

Cohen’s paper has been widely discussed, but it is not clear that thinking about the subject of freedom in these collective terms adds a great deal to our understanding of the notion. At the very least, it is odd to think that we are in any significant way unfree to do something simply because we cannot all do it at the same time. We cannot all claim unemployment benefits at the same time, nor can we all become plumbers or professors of political theory, but this does not mean that we are unfree to do or become any of these things (J. Gray, 1986, p. 166).

The second question which needs to be asked is that of what the subject of freedom must be free to do if liberty is to be enjoyed. One might say, for example, that to be free the subject must have the opportunity to exercise traditional liberties, or to do what he desires, or to do anything. At first sight it appears that to be free one must have the opportunity to do what one wants or desires. The difficulty with this position is that it means that liberty can be increased by trimming or reducing desires. Thus the contented slave could be seen as free because he has no desire to escape. This problem was raised in criticism of Berlin’s original formulation of the notion of liberty (McFarlane, 1966, pp. 77–81). Berlin’s response was to acknowledge that the ‘extent of my social or political freedom consists in the absence of obstacles not merely to my actual, but to my potential choices – to my acting in this or that way if I choose to do so’ (Berlin, 1979b). On this view, then, an individual enjoys negative liberty if he is not obstructed or interfered with should he seek to perform an action. Generally, this account of the ends of negative liberty meets the relevant objections and its acceptance should not be controversial.

The more difficult problem in accounting for negative liberty is in answering the question of what counts as an obstacle or interference. Here, there is a greater variety of views on offer, and conceptions of liberty generally differ on the basis of their answers to this question. A clear, if uncompromising, answer to the question is offered by Hillel Steiner: 'An individual is unfree if, and only if, his doing of any action is rendered *impossible* by the action of another individual' (Steiner, 1991, p. 123, emphasis added; Steiner, 1994, ch 1; see also Parent, 1974). If an individual is still able to perform an action, even if someone has made doing so extremely undesirable, the individual remains free. In this regard, threats and penalties do not make anyone unfree to perform an action since they leave open the option of performing the action and incurring its costs. Indeed, these kinds of *threatening* interventions are indistinguishable from *offers*, and neither diminishes liberty; in both cases the intervention alters the *desirability* of performing the action, but not the *possibility* of doing so. Steiner's reasons for taking this path are not difficult to discern: if liberty can be reduced by interventions which merely make a course of action less desirable, then a person can be rendered less free if he is subject to any kind of influence by other human agents. I could claim to be made less free in term time because I will not go to restaurants for fear of running into pesky undergraduates. Any departure from the stance that only interference rendering action impossible makes an individual unfree, Steiner maintains, makes freedom dependent upon desire and leads to our misconceiving it as a psychological condition rather than as a physical fact.

If only *prevention* of action and not mere intervention in its course can reduce liberty, however, what exactly does prevention amount to in this account of liberty as a physical fact? In Steiner's theory an agent is prevented from action to the extent that he is rendered unable to make use of a portion of physical space or a number of physical objects: 'the greater the amount of physical space and/or material objects the use of which is blocked to one individual by another, the greater is the extent of the prevention to which the former individual is subject' (Steiner, 1991, p. 137). A person who is imprisoned is thus unfree to the extent that he has use of less space and fewer resources. Furthermore, Steiner maintains, some of the persons who are not imprisoned have now had their freedom expanded, since they can make use of the space and material objects to which the prisoner is denied access. This is because, according to Steiner, freedom has to be seen as a fixed quantity which cannot be expanded or reduced but only redistributed. One person's loss of freedom must involve another's gain: the 'universal quest for greater personal liberty is . . . a zero-sum game' (Steiner, 1983, pp. 88–9). It is thus pointless to talk of maximizing the total amount of freedom; the important normative questions are not about the manufacture but about the *distribution of* freedom.

Steiner's views, I would like to suggest, are mistaken in important ways. Essentially, the idea that freedom has to be understood purely as a physical fact (wholly independently of desire) is, in the end, untenable. To see this, we should consider first the idea that freedom involves the use or control of physical space and resources. Steiner is quite precise: 'to act is, among other things, to occupy particular portions of physical space and to dispose of particular material objects' (1991, p. 137). For an agent to be free to perform an action entails that all the physical components of doing that 'action are (simultaneously) unoccupied and/or disposed of by another' (ibid., p. 138). In other words, the agent must *possess* that physical space or those material objects, and he

possesses an object only ‘when he enjoys exclusive physical control of it, that is, when what happens to that object – allowing for the operation of the laws of physics – is not subject to the determination of any other agent and is therefore subject only to his own determination’. As Steiner prefers to understand the notion, control only obtains when an agent is able to render it *physically impossible* for another to occupy space or use an object.

Yet it seems clear that this sort of complete physical control Steiner thinks is necessary for freedom cannot be had. For the most part individuals seeking to exercise control over their possessions look to putting in place non-physical impediments to trespass. My freedom to use my house, and to exclude the uninvited, is enjoyed not because I am capable of physically excluding others but because of a range of non-physical circumstances: I have title to my property, property rights are respected and can be enforced if necessary, and so on. Now it might be maintained that I only have freedom to the extent that others do not in fact physically intrude, and that if they do I do not have (as much) freedom because I do not control as much physical material. But the implication of this strongly physicalist attitude which must be noted is that such things as rights, entitlements and laws have to be regarded as having no bearing on liberty. This does not appear to be a plausible line of argument. Indeed, if one accepts Steiner’s view that we should be concerned primarily about the *distribution* of liberty, then our concerns would most likely be about the rules or laws that affect that distribution, rather than with physical impediments.

The implication which has to be – and generally is – accepted, then, is that liberty can be affected by interventions which affect the desirability of performing particular actions. But we have to deal with the question of which kinds of interventions that affect the desirability of an action are to be regarded as freedom restricting – since we do not want to say that all influences on an action diminish the agent’s liberty by making other options less attractive.

One argument, put by F. A. Hayek, is that we only regard as freedom restricting those actions which are *coercive*: ‘ “freedom” refers solely to a relation of men to other men, and the only infringement on it is coercion by men’ (Hayek, 1960, p. 12). What is striking about Hayek’s formulation is that he maintains that freedom is restricted only by coercive intervention by *persons*; the law, however, does not restrict freedom. Freedom, for him, is best described as ‘independence of the arbitrary will of another’ (ibid.). But it is also his contention that ‘when we obey laws, in the sense of general abstract rules laid down irrespective of their application to us, we are not subject to another man’s will and are therefore free’ (ibid., p. 153). There is coercion if a person threatens to inflict harm with the intention of bringing about a change in the conduct of a second person (who regards himself as having been made worse off). But there is no coercion – and so there is liberty – if the law makes a person worse off and ‘forces’ a change in conduct (ibid., pp. 134–6; and see Kukathas, 1989, pp. 150–1).

Hayek’s solution, however, is unsatisfactory on two counts. First, his account of coercion is inadequate because it makes many kinds of competitive action appear liberty restricting. A trader who intends to inflict harm on his competitor by lowering prices, and brings about a change in conduct (by forcing him out of this line of business) would, on Hayek’s definition, be infringing liberty. Yet Hayek himself would not want to say that this kind of competitive conduct is coercive or liberty diminishing. Second,

his suggestion that law does not restrict liberty because any 'coercion' implicit in its commands and prohibitions is predictable and avoidable is unconvincing: predictable coercion remains coercion. While there is merit in Hayek's attempt to argue that law should be viewed as a condition of, rather than an obstacle to, liberty, the theory of coercion does not really account for this.

A different solution to the question of which kinds of intervention are freedom restricting comes from Robert Nozick. Like Hayek, he thinks that a distinction has to be drawn between threats and offers, and while he does not think it right to 'capsulize freedom as absence of coercion' (Nozick, 1972, p. 101), he also sees liberty as intimately bound up with coercion. Moreover, Nozick's view is in line with Hayek's in that he sees threats, but not offers, as coercive for the reason that 'when a person does something because of threats, the will of another is operating or predominant' (ibid., p. 128). This thought forms the basis of the conception of liberty which is invoked (but not explicitly developed) by Nozick in *Anarchy, State and Utopia*, where it is suggested that interference with individual choice makes for liberty infringement (Nozick, 1974, pp. 160–4). What has to be noted about this account, however, is that only some kinds of intervention count as interference which involves restriction of liberty. For example, it cannot be said that the choices of individuals acting 'within their rights' (ibid., p. 262) interfere with or restrict the liberty of another individual, even if those choices leave that individual with no reasonable options. So if, as a result of others acting within their rights, I am left with the choice of working for Robert Maxwell or starving I cannot claim that I am forced or coerced into involuntary employment. If, however, Mr Maxwell had engineered this situation (say, by stealing from and bankrupting his competitors) I can claim to have been forced.

Nozick's conception of liberty here is one which is dependent upon his conception of justice, which in turn is founded upon a view about what rights individuals have (since any action which does not violate rights is not unjust). Liberty cannot be violated by actions which are just. In some respects this understanding of liberty is consistent with our everyday use of the term. We do not normally say that the gang member's liberty is lost because the law forbids assault and battery. Nonetheless, the problem with Nozick's conception of liberty is that it is so dependent upon a theory of rights which is never fully expounded. Furthermore, tying liberty so intimately to another substantial moral value risks depriving the notion of liberty of independent force in political argument.

This latter objection lies at the centre of G. A. Cohen's criticisms of Nozick's view of freedom. According to Cohen, because Nozick sees only illegitimate actions as capable of violating liberty he is operating with a 'moralized' notion of freedom. This allows Nozick to ignore many situations in which people are 'forced' by circumstances such as poverty to take or to forgo particular options. Nozick's 'moralized' definition allows him to deny that the indigent are necessarily unfree since the mark of unfreedom is not the absence of options or opportunities but the violation of (a narrow range of) rights (Cohen, 1978). Yet Cohen's critique of Nozick may not be as telling as he suggests. While rejecting 'moralized' conceptions of freedom, Cohen does not deny that we are concerned here with freedom as it relates to interaction between human agents. We are not concerned with those obstacles which are not subject to human influence. Someone whose path has been blocked by a rockslide is not unfree, although unable,

to continue on that route – unless someone can be held responsible for the creation of (or failure to remove) that obstacle, in which case we would say the traveller is not merely unable to journey but unfree to do so. The important issue, however, as David Miller makes clear, is that of the basis upon which we determine whether someone can be held responsible, for this will determine whether or not we can regard an obstacle as a constraint on freedom. This is a moral issue, and an answer to it cannot be morally neutral (Miller, 1983, p. 72). Nozick has not provided a morally neutral account of what counts as a constraint on freedom, but neither can one be expected. There is, however, the stronger criticism of Nozick that he does not merely offer a morally non-neutral definition of freedom, but a view that says that morally justified interferences do not restrict liberty; the definition is thus 'moralized'. But this is not quite the case. In Nozick's theory the domain of individual liberty is specified by (rights-based) principles of justice. Morally justifiable interferences with individual liberty (to avoid 'catastrophic moral horror', for example; Nozick, 1974, p. 30) do restrict liberty. However, they restrict liberty not because they are unjustified but because they are *unjust*. Nozick invokes a *justicized* account of liberty, but not a moralized one (J. Gray, 1986, p. 169).

Nonetheless, this does not mean that Nozick's approach to specifying what counts as a constraint on freedom is satisfactory. For Nozick justice can never compete with liberty; justice cannot violate liberty. Yet this seems too strong a demand; there may well be times when liberty must be violated for justice to be done. For example, upholding justice in rectification by transferring property rights may infringe the liberty of those whose justly acquired property is now taken. Specifying what makes for constraints upon liberty may be a more complicated matter than Nozick's theory suggests.

This point is brought out with especial clarity by Nancy Hirschmann in her feminist analysis of freedom. It is not possible properly to appreciate the nature of freedom, she suggests, without coming to terms with the social construction of the self. An important part of freedom may consist in removing obstacles to the fulfilment of our desires; but we cannot evade the question of what kinds of desires we acquire as if it had nothing to do with the question of freedom. If social institutions construct subjects who accept violence against their persons, or who become dependant on welfare, or resist the impositions of their cultural groups, freedom is at stake. The task, however, is to account for this loss of freedom without losing sight of the idea of freedom captured by the idea of negative liberty (Hirschmann, 2003).

These attempts to specify what counts as a constraint upon individual liberty illustrate the difficulty of developing an uncontroversial conception of liberty. In part, this may simply reflect the 'essential contestability' of the concept. The more important reason, however, is that judgements about freedom cannot be insulated completely from other evaluative questions and from issues in social theory. While it should be recognized that freedom requires the absence of obstruction, and that coercive behaviour (which penalizes or frustrates action) restricts liberty, it is a matter of moral argument what precisely qualifies as an obstruction, or constitutes coercive behaviour. Rawls, for example, suggests that a person is obstructed by others if they fail to uphold the rights or perform the duties which they are obliged to. 'If, for example, we consider liberty of conscience as defined by law, then individuals have this liberty when they are

free to pursue their moral, philosophical, or religious interests without legal restrictions requiring them to engage or not to engage in any particular form of religious or other practice, and when other men have a legal duty not to interfere' (Rawls, 1971, pp. 202–3). Yet what is crucial here is the specification of the relevant rights and duties. Whether or not any particular individual is free according to a Rawlsian conception of liberty may be a purely *descriptive* matter insofar as it is necessary only for us to enquire whether or not he is actually obstructed to establish whether he is free. But what counts as an obstruction under that conception is an *evaluative* matter which requires the development of arguments in moral and social theory (Berlin, 1979a; J. Gray, 1984). Thus we should expect to find that different political theories or ideologies, even if they should accept the core understanding of negative liberty as the absence of interference, will embrace quite different conceptions of liberty.

Liberty: Liberal and Republican

What, then, would make for a free society? One prominent answer in modern thinking about liberty is that a free society is fundamentally a *liberal* society. It is the answer offered by Berlin (1979a), as well as by other contemporary theorists such as John Rawls, F. A. Hayek and James Buchanan (1975). Liberalism has, in recent times, come under severe criticism for a range of alleged inadequacies – for overvaluing justice and for undervaluing community, among other things (Sandel, 1982). But since liberty is often taken to be the core value upheld by liberalism, it is worth examining its claim to being the philosophy of a free society.

The most substantial challenge to liberalism's libertarian credentials has come from Quentin Skinner in a series of papers (1984; 1991) criticizing liberal conceptions of negative liberty and advancing a 'republican' conception of negative liberty. Skinner's primary claim is that there is something unsatisfactory about liberalism's reliance on a particular notion of negative liberty merely as the absence of interference. His targets are the Hobbesian notions that liberty consists in the absence of external impediments to motion, and that in political society the 'greatest liberty of subjects, dependeth on the silence of the law', since law is an obstacle to liberty (Hobbes, [1651] 1968, II, 21, 143). His criticism of liberalism is largely a criticism of the legal theories of writers like Jeremy Bentham, for whom law itself must be viewed as an invasion of liberty. Skinner himself seeks to uphold a negative conception of liberty; but it is the particular negative conception associated with the notion of law as a fetter on freedom, which he associates with liberalism, that he seeks to criticize.

To see why Skinner may have a point we might consider again the case of the slave who enjoys a good measure of negative liberty, and yet chooses not to escape. However much negative liberty the slave might enjoy, there is something unsatisfactory about this liberty. The reason, essentially, is that he is not secure in its possession. Whether or not, and for how long, he is able to exercise that liberty is subject to the good will and the good fortune of the master. In Philip Pettit's useful term, his liberty has no 'resilience' (Pettit, 1993). Thus we find, for example, that even the most contented slaves, living under the kindest masters, in *Uncle Tom's Cabin* want manumission for fear that, should their masters die or be forced to sell them, their lives could instantly

be transformed for the worse. The point here was well recognized by Edmund Burke in arguing against the Chatham Methodists in 1773. The Methodists objected to a Bill for the relief of Protestant Dissenters on the grounds that Dissenters did in fact enjoy a measure of liberty, and that it would be dangerous to grant it to them as a matter of law. To Burke, however, this was 'liberty under a connivance', which he rejected because 'connivance is a relaxation from slavery, not a definition of liberty. What is connivance, but a state under which all slaves live? If I was to describe slavery, I would say, with those who *hate* it, it is living under will, not under law' (Burke, 1970, p. 77).

Skinner's concern is that liberty exercised in spite of the law, rather than enjoyed under its protection, is insecure – indeed, no more than liberty under a connivance – and will soon be lost. His argument is that what are needed are social institutions which will better assure individuals of their liberty. More specifically, we need institutions which make for active self-government, even to the point of coercing citizens into performing their public duties and so 'upholding a liberty which, left to ourselves, we would have undermined' (Skinner, 1991, p. 186). The target of Skinner's criticism is contemporary liberalism, 'especially in its so-called libertarian form' which, by threatening to sweep 'the public arena bare of any concepts save those of self-interest and individual rights', threatens also our rights and liberties themselves (Skinner, 1991, p. 204).

Skinner's contention that it is the liberty that is enjoyed under the protection of the laws which is the liberty to be sought is entirely persuasive, I would suggest, because the contrast it draws is that between free individuals and slaves. In the moral world, the opposite of liberty is slavery. (See Patterson, 1991, for a discussion of the origin of the ideal of freedom in the experience of slavery.) What is more disputable, however, is whether he is right to say that it is the institutions of self-government, underpinned by the enforcement of republican virtue, which are going to preserve that liberty. Equally contestable is the claim that liberalism, with its emphasis on individual rights, is a threat to that liberty. Indeed, the very idea that liberalism necessarily views law as invasive of liberty is questionable. Hayek, for example, has consistently argued that law is not invasive of liberty but its necessary precondition.

The liberal and republican traditions are not always easy to disentangle. One reason for this is that both attach great value to institutions which check, and attempt to control, political power. Both emphasize the importance of the rule of law, of constitutional government and of the separation of powers for the preservation of a free society. Yet where they might be seen to differ is over the question of how political power is to be checked. Republicans, like Skinner and Pettit (see also Pettit, 1989; 1992), seem to suggest that it is best checked by political institutions which increase public participation and so increase the accountability of the executive power (though Pettit maintains that his understanding of republicanism is neither communitarian nor populist; see Pettit, 1996, p. 8). Liberals, I would suggest, are less impressed by such checks *within* the structure of political institutions because they do not serve sufficiently to disperse power in society. It is not the political separation of powers that is vital but their social separation. While republicans are concerned 'to improve the accountability of our soi disant representatives' (Skinner, 1991, p. 204), they also look to extending the power of the ('checked and controlled') state both to empower (Pettit, 1992, p. 30) and to

coerce its citizens. Liberals, while they might accept that institutional checks are of some value, insist that it is the accumulation of power which is the danger – above all, to liberty.

It is in this context that one should understand the liberal preoccupation with *individual* rights and liberties rather than *public* duties. Asserting such claims on behalf of individuals is intended to deny power to the state by limiting the scope of legitimate public concern. There are at least two reasons for limiting the scope of the public domain, both of which bear upon liberty. The first is one alluded to by J. S. Mill when he wrote:

> If the roads, the railways, the banks, the insurance offices, the great joint-stock companies, the universities, and the public charities, were all of them branches of the government; if, in addition, the municipal corporations and local boards, with all that now devolves on them, become departments of the central administration; if the employés of all these different enterprises were appointed and paid by the government, and look to the government for every rise in life; not all the freedom of the press and popular constitution of the legislature would make this or any other country free otherwise than in name. (Mill, [1859] 1985, pp. 244–5)

Mill's fear was partly that such power would convert 'the active and ambitious part of the public' into 'hangers-on' of the government. But the greater danger was that, as the more able were drawn into government office because 'every part of the business of society which required organized concert, or large and comprehensive views' was in the hands of government, there would be fewer people among those outside capable, 'for want of practical experience', of criticizing or checking the government's mode of operation (ibid., p. 245). An extensive public power would weaken public life.

The second reason for diminishing the scope of the public domain is to be found in an argument advanced by Edmund Burke, who maintained that 'the state ought to confine itself to what regards the state', and not embroil itself in the affairs of society. For as rulers 'descend from the state to a province, from a province to a parish, and from a parish to a private house, they go on accelerated in their fall. They *cannot* do the lower duty; and in proportion as they try it, they will certainly fail in the higher. They ought to know the different departments of things, – what belongs to laws, and what manners alone can regulate' (Burke, 1970, p. 31). As the state expands it will perform all its functions less well, and particularly its primary function of upholding the peace and security which is necessary for liberty (ibid., p. 65). Once again, the argument is that expanding the scope of the public domain weakens the public in its capacity to supply a check upon executive rule.

If these points are sound, then what is needed to uphold liberty is a set of institutions which foster individual responsibility and protect certain individual rights – and not institutions which purport to make for public virtue. Whether or not these points are sound, however, is a matter of social theory, which cannot be easily resolved here. If questions of liberty are to be answered there must be recourse to social theory. (This is a point made by Berlin; for a discussion see J. Gray, 1984.) The contention which can only be asserted here is that for answers we should turn not to the classical republicans but to the ideas of classical liberalism.

References

Baldwin, T.: 'MacCallum and the two concepts of freedom', *Ratio*, 26 (1984), 125–42.
Benn, S. I. and Peters, R. S.: *Social Principles and the Democratic State* (London: Allen and Unwin, 1959).
Benn, S. I. and Weinstein, W. L.: 'Being free to act, and being a free man', *Mind*, 80 (1971), 194–211.
Berlin, I.: 'Two concepts of liberty', in *Four Essays on Liberty* (Oxford: Oxford University Press, 1979a), pp. 118–72.
—: 'Introduction', *Four Essays on Liberty* (Oxford: Oxford University Press, 1979b), pp. ix–lxiii.
Buchanan, J. M.: *The Limits of Liberty: Between Anarchy and Leviathan* (Chicago, Ill.: University of Chicago Press, 1975).
Burke, E.: *The Philosophy of Edmund Burke*, ed. L. I. Bredvold and R. G. Ross (Ann Arbor, Mich.: University of Michigan Press, 1970).
Carter, Ian: *A Measure of Freedom* (Oxford: Oxford University Press, 1999).
Cohen, G. A.: 'Robert Nozick and Wilt Chamberlain: how patterns preserve liberty', *Justice and Economic Distribution*, ed. J. Arthur and W. H. Shaw (Englewood Cliffs, NJ: Prentice-Hall, 1978), pp. 246–62.
—: 'Capitalism, freedom, and the proletariat', in *The Idea of Freedom: Essays in Honour of Isaiah Berlin*, ed. A. Ryan (Oxford: Oxford University Press, 1979), pp. 9–26.
Dworkin, R.: 'We do not have a right to liberty', in *Liberty and the Rule of Law*, ed. R. L. Cunningham (College Station: Texas A and M University Press, 1979).
Feinberg, J.: *Rights, Justice and the Bounds of Liberty* (Princeton, NJ: Princeton University Press, 1980).
Goodin, R. E.: 'Freedom and the welfare state: theoretical foundations', *Journal of Social Policy*, 11 (1982), 149–76.
Gray, J.: 'On negative and positive liberty', *Conceptions of Liberty in Political Philosophy*, ed. J. Gray and Z. Pelczynski (London: Athlone Press, 1984), pp. 321–48.
—: 'Marxian freedom, individual liberty, and the end of alienation', *Social Philosophy and Policy*, 4 (1986), pp. 160–87.
Gray, T.: *Freedom* (London: Macmillan, 1990).
Hayek, F. A.: *The Constitution of Liberty* (London: Routledge & Kegan Paul, 1960).
Hirschmann, N.: *The Subject of Liberty: Toward a Feminist Theory of Freedom* (Princeton, NJ: Princeton University Press, 2003).
Hobbes, T.: *Leviathan* (1651) (Harmondsworth: Penguin, 1968).
Kramer, M.: *The Quality of Freedom* (Oxford: Oxford University Press, 2003).
Kukathas, C.: *Hayek and Modern Liberalism* (Oxford: Clarendon Press, 1989).
Levin, M.: 'Negative liberty', *Social Philosophy and Policy*, 2 (1984), 84–100.
MacCallum, G.: 'Negative and positive freedom', in *Liberty*, ed. D. Miller (Oxford: Oxford University Press, 1991), pp. 100–22.
McFarlane, L. J.: 'On two concepts of liberty', *Political Studies*, 14 (1966), 77–81.
Mill, J. S.: *On Liberty* (1859), in *Utilitarianism, On Liberty, Essay on Bentham*, ed. Mary Warnock (Glasgow: Fontana, 1985).
Miller, D.: 'Constraints on freedom', *Ethics*, 94 (1983), 66–86.
Nozick, R.: 'Coercion', in *Philosophy, Politics and Society*, fourth series, ed. P. Laslett, W. G. Runciman and Q. Skinner (Oxford: Blackwell, 1972), pp. 101–35.
—: *Anarchy, State and Utopia* (Oxford: Blackwell, 1974).
Parent, W. A.: 'Some recent work on the concept of liberty', *American Philosophical Quarterly*, 11 (1974), 149–67.

Patterson, O.: *Freedom*. Vol. 1: *Freedom in the Making of Western Culture* (New York: Basic Books, 1991).
Pettit, P.: 'The freedom of the city: a republican ideal', *The Good Polity. Normative Analysis of the State*, ed. A. Hamlin and P. Pettit (Oxford: Blackwell, 1989), pp. 141–68.
—: 'Republican themes', *Legislative Studies*, 6 (1992), 29–30.
—: *The Common Mind: From Folk Psychology to Social and Political Theory* (Oxford: Clarendon Press, 1993).
—: *Republicanism: A Theory of Freedom and Government* (Oxford: Oxford University Press, 1996).
Rawls, J.: *A Theory of Justice* (Cambridge, Mass.: Harvard University Press, 1971).
Sandel, M.: *Liberalism and the Limits of Justice* (Cambridge: Cambridge University Press, 1982).
Skinner, Q.: 'The idea of negative liberty: philosophical and historical perspectives', *Philosophy in History*, ed. R. Rorty, J. B. Schneewind and Q. Skinner (Cambridge: Cambridge University Press, 1984), pp. 193–221.
—: 'The paradoxes of political liberty', in *Liberty*, ed. D. Miller (Oxford: Oxford University Press, 1991), pp. 183–205.
Steiner, H.: 'How free: computing personal liberty', in *Of Liberty*, ed. A. Phillips Griffiths (Cambridge: Cambridge University Press, 1983), pp. 73–90.
—: 'Individual liberty', in *Liberty*, ed. D. Miller (Oxford: Oxford University Press, 1991), pp. 123–40.
—: *An Essay on Rights* (Oxford: Blackwell, 1994).
Taylor, C.: 'What's wrong with negative liberty', in *The Idea of Freedom. Essays in Honour of Isaiah Berlin*, ed. A. Ryan (Oxford: Oxford University Press, 1979), pp. 175–94.

Further reading

Benn, S. I.: *A Theory of Freedom* (Cambridge: Cambridge University Press, 1988).
Cohen, G. A.: 'The structure of proletarian unfreedom', *Philosophy and Public Affairs*, 12 (1983), 3–33.
Cohen, M.: 'Berlin and the liberal tradition', *Philosophical Quarterly*, 10 (1960), 216–27.
Day, J. P.: *Liberty and Justice* (London: Croom Helm, 1987).
Flathman, R. E.: *The Philosophy and Politics of Freedom* (Chicago, Ill.: Chicago University Press, 1987).
Friedman, M.: *Capitalism and Freedom* (Chicago, Ill.: Chicago University Press, 1962).
Gray, J.: 'Liberalism and the choice of liberties', in *Liberalisms: Essays in Political Philosophy* (London: Routledge, 1989), pp. 140–60.
Green, T. H.: 'Liberal legislation and freedom of contract', in *Liberty*, ed. D. Miller (Oxford: Oxford University Press, 1991), pp. 21–32.
Hayek, F. A.: *Law, Legislation and Liberty*, 3 vols (London: Routledge & Kegan Paul, 1982).
Pettit, P.: 'A definition of negative liberty', *Ratio*, NS 2 (1989), 153–68.
—: *A Theory of Freedom* (Cambridge: Cambridge University Press, 2001).
Raz, J.: *The Morality of Freedom* (Oxford: Clarendon Press, 1986).
Schauer, F.: *Free Speech. A Philosophical Inquiry* (Cambridge: Cambridge University Press, 1982).
Taylor, M.: *Community, Anarchy and Liberty* (Cambridge: Cambridge University Press, 1982).
Van Parjis, P.: *Real Freedom for All: What (If Anything) Can Justify Capitalism* (Oxford: Oxford University Press, 1995).
Weinstein, W. L.: 'The concept of liberty in 19th century English political thought', *Political Studies*, 13 (1965), 145–62.

Chapter 40

Personhood

TIMOTHY MULGAN

The Significance of Personhood

Political philosophy is obviously concerned with people. If there were no people we would have no subject. But the contemporary significance of the concept of personhood is largely due to its central role in liberal political philosophy. Puzzles about personhood typically arise as objections to liberalism.

Persons as units of justice

Persons play two key roles in liberal political philosophy: they are both the basic units of political justice and its creators. To illustrate the first, consider John Rawls's criticism that utilitarianism ignores 'the separateness of persons' by maximizing total welfare without regard for its distribution. The few are sacrificed for the many. If a burden on anyone – even someone who is already very badly off – produces more utility elsewhere, then the benefit *compensates* for the burden. The utilitarian's unit of compensation is the universe. Rawls objects that *persons* are the appropriate units of political compensation. Benefits *to you* cannot compensate *me*. (This leads Rawls to his 'difference principle', where inequalities are only just if they work to the advantage of the worst off.) Liberals offer similar objections to the willingness of communitarians to sacrifice individual persons for the 'common good'.

Both utilitarians and communitarians have two distinct replies. They can argue that they *do* take persons seriously. Liberal utilitarians have highlighted the intimate connections between individual liberty and individual well-being since J. S. Mill in the mid-nineteenth century. Utilitarians will choose institutions that maximize total welfare *by* respecting the freedom and welfare of individual persons. Similarly, communitarians argue that a focus on solidarity and the common good protects the *real* interests of persons better than an overemphasis on individual freedom. Utilitarians and communitarians can also reject the liberal emphasis on personhood, arguing that the concept itself is too vague to bear the weight placed on it (see below).

Persons as sources of justice

The origin of political authority is a perennial topic in political philosophy. What gives x the right to claim y's allegiance? Modern liberals typically base legitimacy on consent. As rational autonomous beings, people have a right to participate in the government of their community. Unless the people who are governed by it consent, even a perfectly efficient regime that perfectly respects all other rights is illegitimate. People are the source of legitimacy. For liberals, once again, the unit is the individual person. A legitimate regime requires the consent of each individual person.

The most familiar form of consent theory is the social contract, where just institutions flow from actual or hypothetical agreements. Most social contract theorists have highly rationalized accounts of personhood, influenced by Immanuel Kant. Persons are rational autonomous agents, choosing on the basis of reason (Rawls, 1971; Gauthier, 1986). Unsurprisingly, these persons choose principles designed to respect persons and promote their interests. Modern liberalism is both person-centred and person-based. This dual role links an attractive account of the content of political justice with a (comparatively) plausible account of its foundations. Unfortunately, it is also very problematic. For any person-based theory, the boundaries of personhood are crucial. If our social contract sets a high threshold for personhood, then many sentient creatures (both human and non-human) fail to count as persons. If the sources of justice are also its units, then these non-persons are beyond the scope of justice. Nothing we do to them can be unjust.

Rationalized accounts of personhood are not limited to social contract theorists. For instance, while Robert Nozick builds his libertarian state directly on consent without the use of a formal social contract, he operates with a very Kantian notion of what constitutes a person. (Nozick, 1974)

Creatures Who Are Not Persons

To explore the limits of person-based political theory, we begin with sentient non-human animals who clearly do not count as persons, such as dogs, cats, pigs, or kangaroos. If persons are both the units of political justice and its source, then the obvious conclusion is that, while bear-baiting and factory farming may be cruel and unacceptable, but they are not *unjust*. If we are unsatisfied with this answer, then we must extend justice to include animals. There are two main options.

Animals as units but not sources

One option is to require that the parties to the social contract, themselves persons, must choose principles that are fair to both persons and animals. This raises several pressing questions. How will the contractors balance the interests of persons against those of animals? Will they even understand the interests of animals? Even if they do, how can we be sure they will give those interests sufficient weight?

The social contract is built on the idea that each person is the best judge, and the most motivated protector, of her own interests. (This is why each person must be a

separate and independent source of justice.) The contract works because if each person protects her own interests then everyone's interests are protected. But this in turn only works if the contract includes all individuals to whom justice might be owed. On the other hand, if we allow some people to represent the interests of non-human animals in the contract negotiations, then why not also allow some people to represent *other people*? But then why not allow a single (perfectly benevolent) person to represent everyone's interests? The motivation for a contract is then undermined.

Animals as both units and sources

The alternative solution is to imagine a social contract with both human and non-human parties. We must still balance the interests of animals and persons. Consider the justice of farming animals for food. We can illustrate the issue with a generalized version of John Rawls's veil of ignorance, where contractors choose principles for their society without knowing their position in that society. Suppose you were given a choice between factory farming, organic farming and universal vegetarianism, and were then told that you might be (or represent) either a person or a cow. What would you choose? If factory farming involves unnecessary suffering, then it may be easy to eliminate that option. But what about the other two? The nutritional and aesthetic benefits for persons must be balanced against the burden to animals of being painlessly slaughtered for food. It is unjust to treat persons in this way. But is it unjust to animals?

Suppose you initially rejected farming, and then someone pointed out that the cows that are farmed would otherwise not have existed at all? Would this change your decision? Suppose, like Rawls, you want to give priority to those who are worst off. Even the most contented animal fares much worse, in terms of the things that make life truly meaningful, than almost any person. Should you choose a political system where all resources are devoted to making the lives of animals as pleasant as possible? If not, why not?

These questions are obviously of great interest to animal rights theorists. But their real significance is much broader. Animals are not the only sentient creatures that fail to meet the demanding standards of personhood set by modern liberals – so do many humans. (Indeed, all humans fail to meet these standards for at least the first few years of their lives.) Solutions that work well for non-human animals seem repugnant for human beings. One objection to person-based theories is precisely that they treat the most vulnerable humans as if they were animals.

The Severely Disabled: Human Beings Who Are Not Persons

Under the social contract concept of personhood, a human being who never learns to plan, reason or deliberate is not a person. Such severely disabled humans are a problem for person-based theories for several reasons.

Vulnerable humans outside justice

If persons are the units of justice, then humans who are not persons fall outside the scope of justice. Nothing society could do (or allow its most sadistic members to do) to such

humans would be unjust. Many people find this appalling. Two obvious solutions are to appoint proxies to represent the interests of the severely disabled in the social contract, or to rely on the sentiments that able-bodied contractors feel towards their less fortunate fellows. Either way, in a just society the severely disabled will be protected because their fellow citizens care for them. These solutions fit uneasily into a person-based theory. The social contract gives each person a guarantee that her rights and interests will be protected *no matter what* others may think of her. After all, would any sensible woman accept a contract where the interests of women were protected only by the sentiments of men? As proponents of disadvantaged groups have always maintained, what is required is justice not charity, personal representation not paternalism.

Humans no better than animals

The rational capacities of some animals exceed those of some humans. Any person-based theory seems to grant such humans more status than those 'superior' animals. This strikes many people as appalling. No doubt we could treat pigs or chimpanzees or dolphins better than we do. But should we treat even the most severely disabled humans worse than pigs? Suppose a gourmet cannibal wants to humanely farm congenitally disabled people. Would we refer her application to the Ministry of Agriculture along with applications from equally 'humane' pig farmers?

The overwhelming needs of the severely disabled

Our two previous objections suggest that the interests of the most vulnerable humans will receive insufficient weight in a person-based theory. Our final objection is that their needs will be given *too much* weight. Suppose our definition of personhood includes the most disabled humans. Some modern social contract theorists give very strict priority to the interests of the worse off (indeed, for Rawls, such priority is the essence of justice as fairness). As it is extremely expensive to meet the basic needs of the most disabled humans, a just society will devote all its resources to providing the most marginal improvements in the lifetime well-being of its most severely disabled members (Daniels, 2001). While this might be commendable, do we really think it is what justice *demands*?

Human Beings Who Are Not Yet Persons

Some unfortunate humans never become persons. Even the most fortunate are not born as persons. Liberal personhood is an idealized form of rational *adulthood*. Yet many difficult political problems concern the transition from childhood to adulthood. In any modern liberal society, adults can vote, control their own finances, make their own career, lifestyle or educational decisions, enter into contracts, incur debts, choose their own television channels and consent to sex. Six-year-olds can do none of these things. Boundary problems plague the concept of personhood. Forty years ago I did not exist. Today I am a person. When did I become one? And what was my status within person-based political philosophy, in between?

Human beings who are not yet persons raise many of the same issues as those who will never be persons. (As they cannot consent, how can they be sources of justice? If they are not sources, how are their interests to be protected?) They also raise an additional problem, perhaps even more puzzling. Not only is a human not born a person, she does not even automatically become one. Whether or not she does depends, not only on her genetic makeup and other capabilities, but also on features of her environment that may be affected by the political institutions of her society. Principles of justice determine who will *become* a person, as well as how persons and non-persons are treated.

Intuitively, many people feel that deliberately preventing a human being from becoming a person is extremely wrong. Suppose you raise your child with chickens, just to see what will happen. She never develops the rational capacities necessary for personhood, or for any semblance of a recognizably human life – even though she could have done so. Anyone who did this would be considered a monster, and a society permitting it grossly unjust. It is no defence that, because of your treatment, the child never became a person.

Yet, if our theory of justice is concerned only with persons, then it is hard to see how it can accommodate our beliefs here. It is easy to see why, on such a theory, it is unjust for one person to own another person. But why can't one person be said to own a child who is not a person? If they can, then parents can do *anything* they like to their children. A just state must uphold your right to cook your children, eat them, sell them into slavery or make them work in your salt mine (Okin, 1989, pp. 74–88).

This example raises another problem for person-based liberals. If it is wrong to raise a child in a way that prevents her becoming a person, why is it not also wrong to prevent a person from existing at all? If a just state intervenes to prevent the former, won't it also intervene to prevent the latter? This brings us to the thorny issue of abortion, which we explore in the broader context of the liberal commitment to neutrality.

Neutrality and Personhood

Many modern liberals have a strong commitment to impartiality, especially regarding religion. Rawls goes so far as to say that a liberal political philosophy should be neutral regarding any 'contested metaphysical question' (Rawls, 1985) If reasonable people disagree about some metaphysical question, then our political institutions must not assume any particular answer.

Contested metaphysical questions abound at the boundary of personhood, most obviously in regard to abortion. Some regard every human foetus as the same kind of being as a human adult. Abortion is murder, and must be prohibited. Others accord the human foetus no such status and either regard its fate as appropriately left to legislative deliberation or hold that a right to have an abortion should be constitutionally protected, because a woman's right to control her own body trumps any rights of the foetus. How can we resolve this dilemma and remain metaphysically neutral?

The political realm is an arena for settling contested political issues. Contested questions of *scope* are problematic because it is hard to see how they can be settled *within*

the political process. The standard liberal response to controversy is to attempt to enable each person to live according to her own beliefs. Yet we cannot equally respect each person until we know what a person *is*. Either we include foetuses or we do not. Liberal neutrality breaks down especially (and perhaps *only*) when the concept of personhood is itself contested. Our decisions regarding scope are, in effect, written into the foundations of our liberal constitution.

Abortion raises many questions. Could there ever be common ground (in political theory) between liberals and conservatives? Should the rights of human beings (who are not yet persons) be constitutionally entrenched? If not, why not? If so, which rights? (A right to life or a right to a decent quality of life? Would a right to quality of life generate an obligation – on society – to ensure that some people do *not* come into existence?) If *potential* persons cannot represent their own interests in the political process, then perhaps their rights should be the *first* to be constitutionally entrenched.

The history of liberalism is a history of ever-broadening scope. English liberals began with the view that all wealthy English men of property should be treated equally. Gradually, the liberal scope was extended to include people who didn't have property, weren't English, were a different colour, and finally to include people who weren't men. Liberals do not always remain neutral. The distinguishing feature of the abortion debate is that liberals want to exclude some human beings from the scope of liberal concern.

Instead of redrawing the boundaries of the concept of personhood, controversy over abortion may also prompt us to question its significance – and especially its foundational role in modern liberal political theory. Rejecting both the liberal focus on rational persons and the utilitarian focus on sentient creatures, we might conclude that the most central political concept is a community of human beings. Foetuses, children and disabled humans should all be protected, not because they might become persons, nor because some persons care for them, nor because they can feel pain, but because they *are* human beings.

Partly in response to these worries, some liberals (including Rawls himself in his later work) move away from an emphasis on persons to an emphasis on *citizens*. If a group of people disagree over the boundaries and significance of personhood, they can still find an overlapping consensus built on their obligations to one another as free and equal citizens. While this shift makes the liberal position clearer, and removes some of the anomalies of the person-based theory, it doesn't resolve the underlying impasse. Presumably disabled humans are citizens. But are all children? And what about foetuses?

Future People

Traditional social contracts deal with a single generation. Yet all human societies extend over many generations. Attempts to include future people face two difficulties:

1 *Lack of reciprocity* While our decisions affect the lives of future people, their actions have no impact on us. We can do a great deal for (or to) posterity but posterity cannot do anything for (or to) us. If our social contract is a bargain for mutual advantage, we will have no obligations to future people at all. The present genera-

tion will say that they can do whatever they like to future generations, as they know they will not be on the receiving end of whatever principle they choose.

2 *Different people choices* Our decisions not only affect what happens to future people, but also which people (if any) will exist. Different population or family planning policies bring different sets of people into existence. As Derek Parfit has illustrated with a series of striking thought experiments, such Different People Choices are much more frequent than we might expect. Indeed, any major social policy decision is such a choice (Parfit, 1984, pp. 371–2). Suppose we must choose an energy policy. Should we bury nuclear waste in a desert, or opt for a safer alternative? Different policies produce different patterns of migration, as workers move to take up jobs building the power plants. Suppose the nuclear waste option leads to a catastrophe in several centuries' time. Take any particular individual killed by that catastrophe. It is almost certain that *she herself* would never have existed if we had chosen the other policy. So (Parfit argues) our decision is not unjust on person-based grounds, as no particular person is worse off than if we'd chosen differently.

We cannot contract with 'the people of the future' as if this phrase designated some definite group of individuals who will exist independently of our present decisions and with whom we might interact. The problem with future people is not that they are not people – it is that, at the moment, they are not anything. Yet few liberal political philosophers are willing to conclude that we have no obligations to these non-existent persons. In response to the problem of reciprocity, we might imagine a contract between different generations *as if* they could interact. In response to the problem of Different People Choices, we might stipulate that our contract includes everyone who *might* exist. (This would rule out our risky energy policy, as the future people who exist under that choice are worse off than a different set of future people who would have existed if we'd acted differently.)

Unfortunately, it is a very contingent matter which particular people get to exist. Given the vast number of possible combinations of genetic material, possible people vastly out-number actual people. This new contract is thus very hard to imagine. It also generates uncomfortable results. A rational person presumably prefers non-existence to a life not worth living. If our contractors give priority to the interests of the worst off (as many contemporary social contract theorists say they should), then they will prefer an empty world to a world with millions of extremely happy people and one person whose life is not worth living (as they won't know whether they would be the one who ends up with the life not worth living). But any population policy that brings a new generation into existence will produce some people whose lives are not worth living. So justice requires a policy of universal non-existence.

We could escape this conclusion by denying that any life is ever not worth living. But now our contractors will aim to maximize the number of people who exist, irrespective of the quality of their lives, to minimize their chances of failing to exist – leading to vast overpopulation. It seems bizarre to say that justice requires such a result! (Similar problems arise – though in a less extreme form – if we assume that our contractors aim to maximize their expected utility, rather than favouring the worst off as Rawls does.)

The only remaining alternative is to imagine a contract where everyone knows they will exist, no matter what they choose. But now they will prefer a very small number of very wealthy people to a much larger number of slightly less wealthy people – even if the population is too small to produce a new generation. This seems a very unattractive result.

Utilitarians and communitarians will argue that, unlike social contract theorists, they can offer a natural account of intergenerational justice. For utilitarians, future people matter just as much as present people and Different People Choices are morally indistinguishable from Same People Choices. Our aim is to maximize total happiness, whenever it occurs. For communitarians, our primary obligation is to a human community, built on a notion of a common good that endures across generations. Just as we have received goods and institutions from previous generations, we must hand them down to our descendants.

On the other hand, while they have no difficulty with the *idea* of obligations to future generations, both utilitarians and communitarians have great difficulty providing a clear and appealing account of the content of those obligations, especially when the needs and rights of future people must be balanced against those of present people. Indeed, all main political theories struggle to cope with future people. Some philosophers conclude that future people necessitate a radical rethinking of moral and political philosophy, and of the role of the concept of personhood.

Dead People

Our final problematic group used to be persons, and may or may not still be persons – the dead. The dead are significant both in their own right, and through their connections with future people. Unlike our other topics, this issue has not attracted much philosophical attention. So we content ourselves with outlining the problem, rather than canvassing existing solutions (Mulgan, 1999; 2002).

In most modern societies, there is significant disagreement over the present ontological and moral status of those who are no longer living. Some insist that those who are no longer living are affected by the fate, actions and lifestyles of their descendants, and thus have a morally relevant interest in the contemporary polity. Others disagree. Modern liberal political philosophy ignores the dead. As with foetuses or children, the real question is not whether liberalism is fair to living people who happen to have strange views about the dead. Rather, we want to know if liberalism is fair *to the dead*.

This problem is especially acute in postcolonial societies and developing countries. Despite their differences, most forms of Christianity adopt a passive view of the dead. Even if they can be affected by our actions, our departed ancestors cannot interact with us. By contrast, many traditional non-Western religions adopt a more robust, active view of the role of the dead. Departed ancestors must be consulted, appeased and interacted with. Not only can we affect them, they can affect us.

When it comes to the question of life after death, there is no religiously neutral set of evidential standards to which liberals can appeal. Religious traditions disagree vehemently as to what would constitute reliable evidence in this area, as to what evidence

there is, and even as to whether beliefs regarding the fate of the dead should be based on empirical evidence at all. It is not only particular scientific theories which are contested, but the very nature (and scope) of empirical inquiry itself. It is thus impossible to separate the scientific from the metaphysical and the moral, as liberals must if they are to adopt particular views regarding the ontological status of the dead while remaining neutral between competing religious traditions.

Beliefs about post-mortem persons play a central role in most religious traditions. To survive in a liberal polity, many religions adapt their creeds and practices to render them consistent with liberal principles. Intolerant, racist or sexist religions may, over time, evolve to be more liberal, without losing their identity. Belief in life after death may be much more difficult to give up. Can any such religion be treated with respect in a person-based theory that ignores the dead? If not, can liberal person-based theories accommodate persons who are no longer living?

In political philosophy, dead people are connected with future people in several ways. In the previous section, we considered two reasons why social contract theorists cannot cope with future people: lack of reciprocity, and the ubiquity of Different People Choices. Both arguments rest upon controversial metaphysical claims about the dead. If we continue to exist after death, then the claim that we will be affected in the distant future by the actions of our descendants is no more puzzling than the claim that I might be affected by what you will do tomorrow. Some common views about the dead also deny that we *ever* face Different People Choices. Suppose we believe that each currently existing person has died and been reborn innumerable times prior to this life and will be reborn many times in the future. When a new human body is formed, a new *person* is not created. Rather, an already existing person is reborn. At any time in the future, we will all exist, though we may have been reborn several times in the interim. Future people are not a separate class of people with whom we do not interact. They are us. If my parents had never met, I would still have existed. I might have possessed a different genetic code, been born to different parents, perhaps even with a different gender, nationality etc. But I would still have existed, and have been reborn at some point.

This is not a purely abstract problem. Most Western nations contain many (living) people who hold such beliefs. For instance, belief in rebirth is common ground between all Hindu and Buddhist traditions, among others. The United States of America, for instance, contains significant communities of Buddhists and Hindus, while the United Kingdom includes substantial minority groups of Hindus and Sikhs. Many of those people continue to believe in rebirth.

Even if we do not literally believe that the dead are still with us, we may still appeal to them to explain our obligations to future people. For instance, some communitarians and nationalists argue that safeguarding the interests of future people – and handing on to them what we have received from earlier generations – is something we owe, not to future people themselves (or to one another) but to *past generations*. David Miller argues that the fact that a nation is a historical community is one reason why it constitutes a 'community of obligation': 'Because our forebears have toiled and spilt their blood to build and defend the nation, we who are born into it inherit an obligation to continue their work . . .' (Miller, 1995, p. 23).

References

Daniels, N.: 'Democratic equality: Rawls's complex egalitarianism', in *The Cambridge Companion to Rawls*, ed. S. Freeman (Oxford: Oxford University Press, 2001), pp. 241–76.

Gauthier, D.: *Morals by Agreement* (Oxford: Clarendon Press, 1986).

Gosseries, A.: 'What do we owe the next generation(s)?', *Loyola of Los Angeles Law Review*, 35 (2001), 293–354.

Miller, D.: *On Nationality* (Oxford: Clarendon Press, 1995).

Mulgan, T.: 'The place of the dead in liberal political philosophy', *Journal of Political Philosophy*, 7(1999), 52–70.

—: 'Neutrality, rebirth and inter-generational justice', *Journal of Applied Philosophy*, 19 (2002), 3–15.

Nozick, R.: *Anarchy, State, and Utopia* (New York: Basic Books, 1974).

Okin, S. M.: *Justice, Gender and the Family* (New York: Basic Books, 1989).

Parfit, D.: *Reasons and Persons* (Oxford; Oxford University Press, 1984).

Rawls, J.: *A Theory of Justice* (Cambridge, Mass.: Harvard University Press, 1971).

—: 'Justice as fairness: political not metaphysical', *Philosophy and Public Affairs*, 14 (1985), 223–51.

Further reading

Barry, B.: 'Circumstances of justice and future generations', in *Obligations to Future Generations*, ed. R. Sikora and B. Barry (Philadelphia, Pa.: Temple University Press, 1978), pp. 204–48.

—: *Theories of Justice* (Berkeley, Calif.: University of California Press, 1989).

De-Shalit, A.: *Why Posterity Matters: Environmental Policies and Future Generations* (London: Routledge, 1995).

Kumar, R.: 'Who can be wronged?' *Philosophy and Public Affairs*, 31 (2003), 99–118.

Roberts, M.: *Child versus Childmaker: Future Persons and Present Duties in Ethics and the Law* (Oxford: Rowman and Littlefield, 1998).

Chapter 41

Power

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Without question, power is one of the most thoroughly discussed concepts in political and social theory. One cannot, in a short review, hope to cover the sprawling, complex and often frustrating debate in its entirety. Instead, I will merely attempt to identify what seem to me the most important issues, and to present them in a way that reduces somewhat a few common confusions.

The General Concept of Power

In defining power, it is difficult to improve on Thomas Hobbes. 'The power of a man (to take it universally),' he writes, is just 'his present means, to obtain some future apparent good' ([1651] 1996, p. 58). Power should not be confused with authority, which Hobbes defines as 'the right of doing any action' (ibid., p. 107). In other words, to have or not have power is a descriptive fact, whereas to have or not have authority is a normative fact. Thus when Locke defines political *power* as 'a right of making laws' ([1690] 2003, p. 101), he should have said political *authority*. Of course, if (as a matter of descriptive fact) many citizens believe that their government has the authority to rule over them, this may in turn increase the power of that government. But this is only to say – which is obvious – that to be believed to hold authority is to have, other things being equal, additional means to obtain future apparent goods.

Having defined power, Hobbes proceeds to offer examples. Thus, to have servants, friends, riches, knowledge of the sciences and arts, is power; so is being popular, affable, eloquent, beautiful, and so on (1996, pp. 58–9). Reflection on this catalogue, however, raises a question. Each list item is, let us suppose, a means for obtaining future apparent goods. Why not sum all the different means (duly weighting each according to their relative importance in our society) available to different persons or groups, and then assign each an overall score on some uniform index? Of course, since strength, wealth and so on are positional goods (to be wealthy is to have, relatively speaking, more money than other people), raw scores on this index would not be equivalent to absolute measures of power. Nevertheless, the power of each person or group could be deduced from their *relative* score: we could regard one person or group as more powerful than another whenever the former has a higher indexical score than the latter.

Unfortunately, we could only construct such an index if power were generally transitive. In other words, if the President of the United States is more powerful than (i.e., has a higher indexical score than) the Chief Justice, and the Chief Justice is more powerful than the Speaker of the House, then it must follow that the President is more powerful than the Speaker of the House. But surely this is not always the case. The President may be more powerful than the Speaker in some contexts, but less powerful in others. Even if he is more powerful *in most contexts* than the Chief Justice, and the latter similarly more powerful in most contexts than the Speaker of the House, it may still turn out that in most contexts the Speaker of the House is more powerful than the President – perhaps because the relevant contexts of comparison do not fully overlap. (To make the example even more challenging, imagine trying to compare the relative power of the President with respect to legislative outcomes, a father with respect to his son, and a businessman with respect to his financial success: each may have some power of a kind, but how are they comparable?) Power is far too context specific to measure on a single scale.

The error here lies in confusing power with its bases. The various means catalogued by Hobbes (strength, wealth, etc.) are properly understood as potential bases for having, in certain contexts, the ability to obtain future apparent goods. Strictly speaking, power is that ability itself, not its basis (whatever that happens to be). Whether a person or group has power in a given situation depends not only on the means available to them (and to others), but also on the structure of the context itself. It depends, for instance, on our background expectations regarding the behaviour of others. Consider whether a bully has the power to get a wimp to give over his lunch money: our answer must be, ‘it depends’. If no one else is around, then a threat to beat up the wimp would be credible, and so the bully does have the power in question. But if the principal is standing nearby, a threat would no longer be credible given our expectation that she will intervene, and so the power evaporates. In each case, the means available to the bully are the same; what changes is only the context. (For further discussion, see Barry, 2002, pp. 160–3.)

This leads us to a second issue. Hobbes describes power as the ability to obtain ‘future apparent goods’. By this he does not mean, however, things that are in fact (objectively or normatively speaking) good for the person or group in question. On the contrary, Hobbes means by good merely ‘whatsoever is the object of any man’s appetite or desire’ – or, in other words, something a person or group happens to want subjectively (1996, p. 35). This is an important observation. We may believe that martyring oneself in a suicide bombing is not, on the whole, good for one; and, indeed, we may be correct (Hobbes certainly would have thought so). But this is neither here nor there when it comes to power: if a person has the requisite means, opportunity and inclination to do something, then it follows that they indeed have the power to do so.

We must be careful, however, not to confuse our assessment of whether a person or group has the *power* to do something with our *expectations* as to whether they will do it or not. Sometimes this can be quite tricky. We might be tempted to say, for example, that (when no one else is around) the wimp does not have the power to refuse the bully. This is not correct. Though we would not expect the wimp to refuse, given the consequences, it is in his power to do so; what is *not* in his power is to bring about a future state of the world in which he keeps his lunch money and is not beaten up. It is

especially important to keep this in mind when behavioural expectations themselves partially constitute the relevant context for assessing power. We *expect* the principal, when present, to intervene in defence of the wimp, even though she has the *power* to look the other way: in assessing the power of the bully, however, it is the former, not the latter, that is relevant. The bully, in turn, may have the power to beat up the wimp and accept punishment from the principal, but since the wimp does not expect him to desire this outcome, he – the bully – does not have the power to issue an effective threat.

The upshot of this is that we must be careful to define power in desire-independent terms. In other words, power is not the ability to do what, as a matter of fact, one actually wants, but rather the ability to do whatever one might happen to want. If power were not desire-independent in this way, then a person could become more powerful by merely tailoring what she wants to do so as to fit what she can already do. Whatever its merits as an ethical doctrine, this is clearly not the notion of power interesting to social scientists and theorists. Instead, we might propose a statement of the basic concept power as follows:

> The power of a person or group, in the most general sense, is their ability, as given by particular means in a particular context, to bring about, if desired, future states of the world.

Though not nearly so elegant as Hobbes's definition, it is at least (I hope) less ambiguous. It is also, roughly speaking, the definition converged on in the most recent and best literature on power. Keith Dowding, for example, defines power in the general sense (which he calls 'outcome power' or 'power to') as 'the ability of an actor to bring about or help bring about outcomes' (1991, p. 48). Similarly, Brian Barry defines power in a 'very broad' sense as 'the ability to bring about desired states of the world by acting' (2002, p. 160) (see also Wartenberg, 1990; Morriss, 2002). This is not to say there are no longer any debates concerning power – only that these are not, as I will try to show, best understood as debates concerning the concept itself. I will concentrate, in what follows, on two sets of persistent debate in particular.

Measuring Power

One persistent set of debates concerns whether power can be measured, and if so, how. Now of course, as an inherently counterfactual concept, power cannot be measured directly: the relevant question here is just whether or not we can measure it with some tolerable accuracy *indirectly*. (It is important not to confuse an indirect proxy for measuring power with the concept of power itself. That this is not always easy to do is amply demonstrated both by those who have proposed, and by those who have criticized, the various commonly discussed measures, and, unfortunately, the failure to distinguish them causes considerable and persistent mischief in the literature.) While, in my view, none of the various attempts to do so have succeeded so far, this remains an open question.

Serious efforts to develop a method for measuring power began in the mid-twentieth century. This, of course, should be no surprise. With the behavioural revolution in the

social sciences well underway, it was only natural that such efforts would be forthcoming. Broadly speaking, there have been two main approaches: the first, undertaken by Simon (1953), Dahl (1957; 1965), Nagel (1975) and others, derives from the quantitative empirical research tradition; the second, undertaken by Shapley and Shubik (1954), Banzhaf (1965) and others, derives from the formal modelling tradition. Because they are the most often discussed representatives of each school, I will focus on Dahl and Shapley & Shubik.

Dahl proposes that we measure power as follows: suppose that the probability of some state of the world's coming about when I actively seek to bring it about is p, whereas its independent probability of coming about when I do nothing is q. According to Dahl, we may roughly say that my power M to bring about that state of the world is given by the simple expression $p - q$. (Despite what Dahl actually says, this is of course a measure of power; his underlying concept of power is clearly some version of the Hobbesian view discussed in the previous section.) Is the equation $M = p - q$ a good proxy measure of power? As we shall see below, it is not.

But first, a few words on the alternate approach – the so-called Shapley–Shubik index. Imagine a legislature with several parties of varying size, and imagine that they 'count-off', so to speak, their respective vote shares. At some point in the counting-off, a majority of overall votes in the legislature will be reached. Let us call the party whose addition to the total achieves a majority the 'pivot'. Now if we imagine that the parties count off in perfectly random order, there is some *ex ante* probability that any given party will be the pivot, so defined; generally speaking, the larger the party, the more likely this is. This probability, whatever it turns out to be, is the power of that party, as measured on the Shapley–Shubik index. For example, if there are four parties, then there are $4! = 24$ possible sequences in which they might count off. Suppose the parties have 60, 40, 20 and 10 seats respectively, and that 66 votes constitutes a majority. In 12 of the 24 sequences, the party with 60 votes is the pivot; thus its power index is $12/24 = 0.5$. The next largest party is the pivot in only 4 of the 24 possible sequences; thus is power index is only $4/24 = 0.17$. And so on. The Shapley–Shubik index (when properly understood) can be extended to a wide range of other contexts, but this need not distract us here. As in the case of Dahl's proposal, the relevant question is whether it provides a reasonably useful proxy measure of power. The answer is again, unfortunately, no.

The shortcomings of these measures were identified in an influential series of critiques beginning in the early 1980s (see especially Barry, [1980] 1989; Dowding, 1991; Morriss, 2002). Roughly speaking, the difficulty is that both measures confuse power with decisiveness. Consider Dahl's equation $M = p - q$, for example. What this measures is the causal efficacy or decisiveness of a social agent in bringing about a particular outcome. But of course one can be powerful without being decisive. Consider a king who has the ability to force his subjects to do what he wants, but whose subjects just happen (without his having brought this about himself, let us suppose) to prefer doing what he wants them to do anyway. In this case, because he is lucky, he need not do anything to get the outcome he wants; while not actually decisive, surely the king is nevertheless powerful. Conversely, one may through luck be decisive without being especially powerful – as, for example, when one just happens to be the last in a long series of voters counted, and all the other votes are evenly split. Decisiveness, in such

cases, is the joint product of luck and power; power, by contrast, is the ability to bring about desired states of the world *even when one happens to be unlucky*.

In one respect, the Shapley–Shubik index is cruder than Dahl's: it assumes that one is either decisive or not in any particular situation, whereas Dahl at least admits a range of probabilities. But this defect could be remedied. Suppose we take the different count-off sequences considered by the Shapley–Shubik model to represent possible worlds in which the parties are differently arranged along a political spectrum with respect to a given issue. Since, given the simplified scenario they describe, there is one and only one decisive social agent in each scenario (namely, the party whose vote is pivotal), the index in effect measures the percentage of possible worlds in which each party would be decisive. A more nuanced index might analogously measure the decisiveness of a social agent in each possible world as Dahl does in the actual world: thus, in possible world 1, a social agent's decisiveness is $M_1 = p_1 - q_1$, in possible world 2 it is $M_2 = p_2 - q_2$, and so on. We might then say that her power M is represented by the average of her decisiveness in n possible worlds: $M = \Sigma_i(p_i - q_i)/n$.

This, I think, would be much closer to the mark, but it still falls short. For one thing, it assumes that each possible world is equally likely. Referring to the earlier example, suppose that the party with 60 votes lies on the extreme right of the political spectrum, while the party with 40 votes lies on the extreme left. Some of the 24 possible worlds contemplated by the Shapley–Shubik index would then be less, and others more, likely to arise. For example, since it is unlikely that the two largest parties will find themselves on the same side of a given issue, the two smaller parties will more often find themselves in a position to be decisive. The index will thus overestimate the power of the former, and underestimate that of the latter.

Further refinements are needed. Perhaps the decisiveness of a social actor in a possible world could be weighted by the likelihood h of that possible world's coming about. Then the social actor's power might be measured by $M = \Sigma_i h_i(p_i - q_i)/n$. No doubt this formulation too requires refinement, but by now it should be clear why developing a practical measure is so difficult. To measure the power of a social actor requires not only that we know how an outcome would have been different had she acted differently than she did, but also how much of a difference she could have made if things were different than they were, and how likely it was that things might have been different than they were. What is worse, we still want an account of how to describe the appropriate domain of possible worlds. There is, presumably, a possible world in which the commands issued by our imagined legislature are ignored by the population: must this too be taken into consideration? If not, why not? The king may seem to have the ability to force his subjects to do what he wants, but this presumably supposes that his subjects will respond rationally to coercive threats. Is there a likely possible world in which they do not? And so on. None of this is to say that developing a practical indirect measure of power is impossible, only that it remains a long way off yet.

The Forms of Power

So far we have only discussed the concept of power in a very general sense. But power comes in many forms, and often it is only one of these forms that we are interested in

studying. How precisely to define these different forms has been a second area of persistent debate, to which I will now turn. Frequently it is complained that some important dimension of power has been improperly excluded or ignored in the literature. Usually, this is due to the confusion – by the author, the critic or both – of an argument about some particular *form* of power with an argument about the general concept itself. Properly understood, the concept of power itself is rarely at issue. So long as we carefully avoid this confusion, it is largely a question of convenience how we choose to conceptually organize the myriad of forms power can take. Rather than attempt a comprehensive classification, I will focus on two forms of power that have been of particular interest to social scientists and theorists.

The first might be called collective or co-operative power. This is the ability that groups of people have to bring about some desired future state of the world, provided that each member of the group does his or her respective part. So, to give a mundane example, two people may not individually have the ability to surmount a wall, but they do have this ability collectively if one can lift up the other, who can then pull the first up afterwards. This is, of course, an extremely important domain in the general field of power, but collective action has been written about extensively, and there is no need to reiterate all those debates here. Instead, I will merely note two points of particular interest.

The first concerns what is called the 'blame fallacy' (or sometimes, 'responsibility fallacy'). There is a tendency to assume that the distribution of power, like the distribution of money, say, must be zero-sum – that if one person or group seems to lack power, it must be because some other person or group has lots of it. For example, if the long-suffering proletariat fail to overthrow capitalism and improve their lot, it is natural to want to assign blame or responsibility for their failure. Must not someone have the power to prevent this from happening if (contrary to the workers' manifest interests) it doesn't happen? Not necessarily: the proletariat might simply face insurmountable collective action problems for which no one is particularly responsible (though some are, of course, fortunate beneficiaries). Of course it might turn out that the beneficiaries of capitalism actually do have the power to hold the workers down – through intimidation, union-busting, preference manipulation and so on; whether they must exercise these powers, if they have them, to maintain their position depends partly on how lucky they are. The point is only that the power of one group cannot be inferred from another's lack of power alone (on this debate, see Connolly, 1983; Dowding, 1991; Morris, 2002).

The second point of interest concerns whether the actions of a group must be deliberately coordinated in order to count as a form of collective or co-operative power. Consider three cases: first, the influence that consumers have over firms; second, the influence that voters have over elected politicians; and third, the influence that the owners of capital have over government. In each case, the former act en masse (though never unanimously, of course) out of similar preferences or interests, but usually without deliberate co-ordination. And in each case, the latter respond accordingly: firms produce what people will buy, politicians enact popular policies and governments cater to business to prevent capital flight. The difficulty is that one might be inclined to consider some of these instances of collective or co-operative power, but not others. But on what conceptual basis should we discriminate among them? Either they all are, or none of them are (see Barry, 2002).

Apart from collective or co-operative power, social scientists and theorists are most often interested in what is called ‘power-over’ or ‘social power’. Max Weber roughly defined this as ‘the probability that one actor within a social relationship will be in a position to carry out his own will despite resistance’ (1978, p. 53). In the language used here we might say that:

> One person or group has power-over another if the former has the ability, as given by particular means in a particular context, to change what the latter would otherwise prefer to do.

We must hasten to add that *actual* resistance is not necessary – only that, *if* there were resistance, it *could* be overcome. (The state has power-over its citizens, even if they happen to prefer doing what the law commands anyway.)

In the current literature, power-over is variably defined as the ability of one social agent to ‘strategically constrain’ the ‘action-environment’ of another (Wartenberg, 1990, p. 85); or, ‘the ability of an actor deliberately to change the incentive structure of another actor or actors to bring about, or help bring about outcomes’ (Dowding, 1991, p. 48); or, ‘the ability to bring about desired states of the world by acting in such a way as to overcome the resistance of others’ (Barry, 2002, p. 161). When one person or group is free to exercise this sort of power over another arbitrarily or without constraint, it is sometimes said that the latter is subject to domination (Pettit, 1997, ch. 2; Lovett, 2001). The differences between these various formulations are, on the whole, slight, and evident in only a few marginal cases. But notice that, however defined, power-over is an instance of power in the general sense: one, but by no means the only, way I might bring about future states of the world is by getting others to do things they would not otherwise do. Power-to and power-over are not competing conceptions of power (as is sometimes believed).

Broadly speaking, there are two ways that one person or group might change what another would otherwise do. Either (a) the former can raise or lower the costs and benefits attached by the latter to different options in their opportunity set, or else (b) the former can influence the latter’s preferences over those options. Loosely speaking, this is the difference between making a television set cost less, and making me desire one more. The precise line between these methods is not always clear, but it is at least a reasonably good starting point for discussion. First, I will consider some obvious examples of each.

One can raise the cost of options by issuing (credible) threats; one can raise the benefits of options by issuing (credible) offers; or one can do some combination of these simultaneously. (The credibility of threats and offers is of substantial importance, but unfortunately we must leave this often deeply puzzling problem aside here.) When one has the ability to raise the cost of an option, we often call this sort of power-over ‘coercive’ in the narrow sense. But it is not always so clear what amounts to a threat as opposed to an offer, especially in the case of expected benefits. If the government announces that it will no longer contract with discriminatory employers, does it issue a threat or merely rescind an offer? Either description is plausible.

Even if we succeed in restricting the term ‘coercive power’ to threats, many baulk at including the ability to make credible offers under the heading of power-over

generally. Suppose on a very hot day I offer a stranger five dollars for his soda, and he agrees. Do we really want to say that I exercised power over him? In my view, the correct answer is yes. Few would similarly baulk at saying that Walmart has tremendous market power over its product suppliers merely because it issues what are technically offers (not threats) to buy only at very low prices. My power over the stranger is, in this respect, no different, except that it is by comparison very, very small (for discussion, see Barry, 2002, pp. 163–5). The only exchanges we can definitively say involve neither threats nor offers – and thus, no power-over – are those made at equilibrium prices in a perfect market, for in such cases the exchanging parties are, by definition, indifferent between their options. Markets are rarely perfect, however.

The other, and often more subtle, way of changing what someone would otherwise do is to influence their preferences. Here there is also a range of cases, and the demarcations along that range are quite fuzzy. At one end of the spectrum we have persuasion, either by force of argument or by rhetorical device. Clearly, the persuasive have a sort of power over the easily persuaded, but whether this is a good or bad thing will often depend on one's point of view. At the other end of the spectrum we have the more sinister cases of propaganda and preference manipulation. What is usually called 'hegemony' – roughly, the systematic misperception of interests by a subordinated group – fits in here if anywhere, but we must be especially wary of the blame fallacy in this context. When we forget about collective action problems, it is all too natural to cite hegemony if there is no overt evidence that, say, the capitalists are actively holding down the proletariat (see Heath, 2000 for discussion).

The ability to change preferences is limited as a form of power in that the manipulator usually cannot benefit from strategic anticipation on the part of the manipulated. By contrast, merely having the ability to raise and lower costs, provided that this is common knowledge, can sometimes effectively induce changes in what people prefer to do: the beat cop need not issue any specific threat in order to induce good behaviour as he ambles by. The significance of strategic anticipation is highlighted by paradox of the hated dictator. Consider a universally hated dictator who, with aid of his henchmen, can force anyone in the country to do whatever he wishes. He is, nevertheless, just a man: even the very weakest of his henchmen could kill him easily while he slept. How then is his power maintained? As Machiavelli observed, the difficulty is that no one of his henchmen can be sufficiently confident that a critical mass of the others will support a coup ([1532] 1998, p. 73). Thus the dictator maintains power, despite being hated by all. While it is true that, strictly speaking, his henchmen could ignore the risk calculation and stop following orders at any time, his unfortunate subjects would not do well to conclude thereby that he has no power. Given reasonable expectations regarding what others are likely to do, each will continue catering to the dictator's wishes, without his ever having to lift a finger.

This brief excursus on power-over will hardly satisfy all readers, but it will have to do for present purposes. Many puzzles remain: for example, how to categorize agenda control. In some circumstances, one person or group might be in a position to bring about future states of the world by setting an agenda: 'power may be, and often is, exercised by confining the scope of decision-making to relatively "safe" issues' (Bachrach and Baratz, 1962, p. 948). For example, a congressional committee can sometimes prevent change by keeping reform legislation from reaching the floor. That, under the

right conditions, this is a sort of power – albeit of a negative and often limited sort – is undeniable; less clear is whether it is an example of power-over. Given the choice between *x* and *y*, voters may choose *y*, and if this is against your interests, you will want to keep *y* off the agenda. But this does not, it seems to me, amount to changing what anyone would otherwise do: on the contrary, one resorts to agenda control precisely because one lacks sufficient power over those who, given the chance, would not choose *x*. If this observation is correct, then agenda control represents a form of power unto itself, distinct from power-over. But provided that we do not ignore it, what difference would this make? As I remarked earlier, it is merely a question of convenience how we choose to classify the various forms of power.

Conclusion

It is sometimes said that power is an 'essentially contested' concept (Lukes, 2005; Connolly, 1983). It is perhaps understandable that one might arrive at this conclusion, given the extensive debate surrounding the concept. Nevertheless, it is in my view mistaken. Most of these debates – including the most vociferous among them – are not about the concept of power at all. They are, for example, debates concerning whether power can be measured and, if so, how; whether certain forms of power should be considered coercive or not; whether the distribution of some particular form of power best explains social outcomes or not; and so on. Far from being debates concerning the *meaning* of power itself, they in fact presuppose that, at some level, we already agree what it means. It is through attempting to answer these latter questions on their own terms, and not through further contesting the meaning of power itself, that social science and theory can be expected to advance.

References

Bachrach, P. and Baratz, M. S.: 'Two faces of power', *American Political Science Review*, 56 (1962), 947–52.

Banzhaf, J. F.: 'Weighted voting doesn't work: a mathematical analysis', *Rutgers Law Review*, 19 (1965), 317–43.

Barry, B.: 'Is it better to be powerful or lucky?' (1980), reprinted in *Democracy, Power, and Justice: Essays in Political Theory* (Oxford: Clarendon Press, 1989).

—: 'Capitalists rule OK? Some puzzles about power', *Politics, Philosophy, and Economics*, 1 (2002), 155–84.

Connolly, W. E.: *The Terms of Political Discourse*, 2nd edn (Princeton, NJ: Princeton University Press, 1983).

Dahl, R. A.: 'The concept of power', *Behavioral Science*, 2 (1957), 201–15.

—: 'Cause and effect in the study of politics', in *Cause and Effect*, ed. D. Lerner (New York: The Free Press, 1965).

Dowding, K. M.: *Rational Choice and Political Power* (London: Edward Elgar Publishing, 1991).

Heath, J.: 'Ideology, irrationality, and collectively self-defeating behavior', *Constellations*, 7 (2000), 363–71.

Hobbes, T.: *Leviathan* (1651) (Oxford: Oxford University Press, 1996).

Locke, J.: *Two Treatises of Government and a Letter Concerning Toleration* (1690) (New Haven, Conn.: Yale University Press, 2003).
Lovett, F.: 'Domination: a preliminary analysis', *The Monist*, 84 (2001), 98–112.
Lukes, S.: *Power: A Radical View*, 2nd edn (Basingstoke: Palgrave Macmillan, 2005).
Machiavelli, N.: *The Prince* (1532), trans. H. C. Mansfield (Chicago, Ill.: University of Chicago Press, 1998).
Morriss, P.: *Power: A Philosophical Analysis*, 2nd edn (Manchester: Manchester University Press, 2002).
Nagel, J. H.: *The Descriptive Analysis of Power* (New Haven, Conn.: Yale University Press, 1975).
Pettit, P.: *Republicanism: A Theory of Freedom and Government* (Oxford: Clarendon Press, 1997).
Shapely, L. and Shubik, M.: 'A method for evaluating the distribution of power in a committee system', *American Political Science Review*, 48 (1954), 787–92.
Simon, H. A.: 'Notes on the observation and measurement of political power' (1953), reprinted in *Models of Man: Social and Rational* (London: John Wiley, 1957).
Wartenberg, T. E.: *The Forms of Power: From Domination to Transformation* (Philadelphia, Pa.: Temple University Press, 1990).
Weber, M.: *Economy and Society: An Outline of Interpretive Sociology*, ed. G. Roth and C. Wittich (Berkeley, Calif.: University of California Press, 1978).

Further reading

Barry, B.: 'Power: an economic analysis' (1975), reprinted in *Democracy, Power, and Justice: Essays in Political Theory* (Oxford: Clarendon Press, 1989).
—: 'Capitalists rule. Ok? A commentary on Keith Dowding', *Politics, Philosophy, and Economics*, 2 (2003), 323–41.
Dowding, K.: *Power* (Minneapolis: University of Minnesota Press, 1996).
—: 'Resources, power, and systematic luck: A response to Barry', *Politics, Philosophy, and Economics*, 2 (2003), 305–22.
Foucault, M.: *Power/Knowledge: Selected Interviews and Other Writings*, ed. C. Gordon (Pantheon Books, 1980).
—: *'Society Must Be Defended': Lectures at the Collège de France*, trans. D. Macey (London: Picador, 2003).
Lasswell, H. D. and Kaplan, A.: *Power and Society: A Framework for Political Inquiry* (New Haven, Conn.: Yale University Press, 1950).
Wartenberg, T. E., ed.: *Rethinking Power* (New York: State University of New York Press, 1992).

Chapter 42

Property

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Property undoubtedly has a central place in arrangements surrounding social life, a place so central that some writers have claimed that it is impossible to imagine anything which could be called a society without some property institution. A moment's thought suggests that property is a key element of an economic system, a major concern of the legal system, and a focus of political dispute. But the long-standing recognition of the importance of property was often coupled with taking many aspects of it for granted, particularly with respect to the possible justification of private property. The development of a specialized literature has occurred in the last forty years, to the extent that Becker has suggested that aspects of the theory of property cannot be developed any further (1992, pp. 197–8). (An excellent essay by Dan-Cohen, 2001 shows that Becker's comment may have been premature. Dan-Cohen explores the relationship between ownership and the boundaries of the self.) This is not, of course, to say that nothing valuable or important had been said about property in the history of political and social thought: nothing could be further from the truth. But much of the political theory of property has been embedded in works with more comprehensive ambitions in political philosophy: Locke's *Two Treatises of Government* ([1689] 1988) and Hegel's *Philosophy of Right* ([1821] 1942) are obvious examples. The coherence of such theories of property is clearly dependent – to an extent which may be disputed – on the wider philosophical framework in which they are embedded. Again, the relevance of such theories to contemporary normative analysis depends – again, to a disputable degree – on the compatibility of the economic and political institutions envisaged by their authors with plausible contemporary applicability.

The major problems in political philosophy raised by thinking about property are simply stated. First, what is property? Which rights are property rights, and what is the nature of those rights? What is ownership, and how is it related to property? Secondly, is there a coherent justification for any property system? This question has been approached both by asking whether any present-day system is defensible and by offering models of defensible arrangements by which to criticize existing practice.

In general terms, contemporary political theorizing about property has two major and closely related characteristics. On the one hand, it has focused on purported justifications for private property, examining the works of writers like Locke and Hegel and subjecting their ideas to critical scrutiny. This scrutiny has usually recognized a

distinction between the attempt to recover what an author intended, dissecting the argument thus attributed to him, and using these works as sources of suggestive patterns of argument, often supplying alternative premisses to those identified as defective. On the other hand, recent theorizing has tried to produce a more integrated approach to the theory of property. The recognition that there are sociological, psychological, economic, legal and political aspects of property has led to the ambition of putting together a theory which takes proper account of these ramifications (Harris, 1996; Reeve, 1999). This ambition has required further development of some of the aspects of the analysis to be integrated, and in any case has been flanked by contributions to the debate from within adjacent disciplines like economic theory. It will be helpful to look at the legal, economic and historical approaches to property to explain this further, and to identify some important disputes.

The analysis of 'ownership' as employed by the legal system has been deeply influenced by a classic article provided by A. M. Honoré (1961), but the nature of his enterprise has not always been fully appreciated by those who have adopted some form of his characterization of 'ownership'. Honoré wanted to identify the way in which 'ownership' was understood by mature legal systems. He thought that there were some items of property which were owned in the same way in different mature legal systems, despite whatever other differences there might be between them. But because this notion of ownership was not specified in law, and indeed was often unnecessary to the resolution of legal disputes, the way in which 'ownership' was understood had to be worked out from the practices of the legal system. Honoré identified eleven 'incidents' of ownership in the standard case. He used this terminology because he argued that, for the legal system, there were elements of ownership that were certainly not rights, and that to see ownership merely as a set of rights would be misleading. As we shall see, it is the status of some of the non-right incidents which has sometimes been doubted. It is also important to bear in mind two points Honoré made which are sometimes overlooked. First, he started out from 'the standard case', recognizing that the complexities of the legal treatment of something as varied as property could not always be reduced to that standard specification (1961, pp. 110–11). Secondly, he distinguished the specification of ownership from the identification of the owner. Since the incidents involved in ownership might be attached to different persons or institutions, it might be difficult to say with confidence who the owner was, or indeed whether there was one at all: but this is consistent with the incidents together constituting ownership (pp. 142–4).

The rights listed by Honoré were the rights to use and to manage, the right to an income, the right to the capital, the right to possession and the right to security. The further incidents were: transmissiblity, absence of term, prohibition of harmful use, residuary character and liability to execution. Some writers who have set out from Honoré's characterization have been doubtful about the inclusion of liability to execution – the liability to have the property taken away because of the judgement of a court – and the prohibition of harmful use (Carter, 1989, pp. 5–8). Other work has been offered in an attempt to elucidate the incidents further by formulating them in the terms of Hohfeld's (1919) classification of the correlatives and opposites of the 'right' elements. This helps with the analysis of the relationship between 'ownership' and property, as Munzer explains:

> For the purposes of this book it is useful to extend Hohfeld and Honoré as follows. The idea of *property* – or, if you prefer, the sophisticated or legal conception of property – involves a constellation of Hohfeldian elements, correlatives, and opposites; a specification of standard incidents of ownership and other related but less powerful interests; and the catalog of 'things' (tangible and intangible) that are the subjects of these incidents. Hohfeld's conceptions are normative modalities. In the more specific form of Honoré's incidents, these are the relations that constitute property. Metaphorically, they are the 'sticks' in the bundle called property. Notice, however, that property also includes less powerful collections of incidents that do not rise to the level of ownership. (Munzer, 1990, p. 23)

The clarity of this exposition should not disguise the difficulties in providing a comprehensive account of the legal treatment of property (whether of an actual or proposed legal system) based upon it. The difficulties arise from the variety of 'things' that are or could be the subject of the standard incidents, and the variety of 'property' that represents a less powerful collection of incidents. One of the important issues connected with these difficulties is the status of self-ownership, or property in oneself. Premisses about self-ownership or self-propriety have featured in a variety of arguments about legitimate property arrangements, but the coherence of the notion has been doubted, and the extent to which it is helpful to envisage persons as having property in their own bodies or other attributes is still in dispute (Reeve, 1991, p. 100; Vallentyne, 1998; Otsuka, 2003, pp. 11–40).

The legal analysis has been developed by refining Honoré's approach through combining it with Hohfeldian categories. The economic approach to property has developed in a different way, by emphasizing the gap between 'legal' and 'economic' property rights. The classic contributions to that approach were provided by Coase (1960) and Demsetz (1966). The concern is with the relationship between property rights and efficiency, and it has been noticed before that the tenor of the argument sometimes appears prescriptive (Barzel, 1989, p. 65; Carter, 1989, pp. 64–75). The definition of property rights affects the extent to which individuals bear the full costs, and reap the full rewards, of their own activity. Efficiency is said to require that individuals do indeed bear those costs and reap those rewards. There is both the idea that individuals will respond to changing structures of incentives by redefining property rights to bring this result about, and the idea that they (or the government) should do so.

Recent work developing this approach has explicitly divorced legal property from economic property rights, and defined the latter in a way which suggests they will rarely be 'perfectly delineated' (Barzel, 1989, p. 2). The project is then to explain the behaviour brought about by these imperfections, which involves trying to appropriate others' 'property' by free-riding, shirking, overusing and so on.

> Property rights of individuals over assets consist of the rights, or the powers, to consume, obtain income from, and alienate these assets. Obtaining income from and alienating assets require exchange; exchange is the mutual ceding of rights. Legal rights, as a rule, enhance economic rights, but the former are neither necessary nor sufficient for the existence of the latter . . . Economists' past failure to exploit the property rights notion in the analysis of behavior probably stems from their tendency to consider rights as absolute.

> The concept of property rights is closely related to that of transaction costs. I define transaction costs as the costs associated with the transfer, capture and protection of rights. If it is assumed that for any asset each of these costs is rising and that both the full protection and the full transfer of rights are prohibitively costly, then it follows that rights are never complete, because people will never find it worthwhile to gain the entire potential of 'their' assets. (Barzel, 1989, p. 2)

This approach no doubt leads to some interesting explanations of behaviour, although it involves some shift in perspective to escape from the conventional terminology. For example, a fire-insurance company is conceived to acquire 'ownership over the attribute of fire incidence' by paying the negative price of receiving a premium (Barzel, 1989, p. 49). Of course, the behavioural assumptions underlying this sort of analysis are open to challenge. For example, it may simply not be true that all individuals who enter into a wage contract are restrained from shirking only by supervision rather than by conscientiousness. But since any interesting proposals about a desirable property system will have to exhibit the economic arrangements with which it is consistent, the economic approach to property rights will have to be taken into account, even if only to reject its premisses, by any integrated theory.

A specific application of the economic approach has been historical. Here the classic example is provided by North and Thomas (1973), who tried to explain different rates of economic growth in sixteenth- and seventeenth-century Europe by reference to the arrangements governing property in different countries. This application of the economic approach has led to puzzlement among its practitioners, however, for they suggest that property arrangements which are, from the analysts' standpoint, inefficient, have also been very common and persistent. This in turn has led to an attempt to provide an economic theory of changes in property rights. Libecap argues that:

> Regardless of whether observed institutions represent the most efficient responses to particular social and economic problems, both economic theory and history provide reasons for believing that the net social gains from changes in property rights at any time will be quite modest. This is because it is difficult to resolve the distributional conflicts inherent in major changes in ownership arrangements. (Libecap, 1989, pp. 3–4)

In effect, the economic theory becomes a theory of politics, or at least of institutions, a theory about how overall benefits from changes in property rights are to be distributed amongst particular actors.

The history of political thought has (obviously) made a considerable contribution to modern debate. The first book to bring together essays on the theories of particular authors tried to cover 'Aristotle to the present' (Parel and Flanagan, 1979; see also Macpherson, 1978). Indeed, some of the theories which have been 'rediscovered' strikingly anticipate contemporary theories, or at least address problems identified by contemporary theories. This seems particularly true of radical thought in the late eighteenth and early nineteenth centuries, which often tried to produce coherent theories of property from natural rights premisses (Cunliffe, 1987; 1988; 1990; Reeve, 1987). The contemporary reinstatement of such premisses is, of course, largely a product of libertarianism. Dispute between 'libertarian', 'liberal' and 'socialist' perspectives has partly been dispute about the interpretation of the history of the political theory of property.

It was the work of C. B. Macpherson, forty years ago, which first refocused attention on theories of property. In *The Political Theory of Possessive Individualism*, Macpherson (1962) argued that the political theory of the seventeenth century, or at least of some of the 'major' theorists of the seventeenth century, was deeply imbued with possessive assumptions about market society. The assumptions were, of course, largely 'revealed' by examining theories of property. The interpretation of the writers in question turned out to be highly controversial, but because theories of property lay at the heart of the dispute a considerable stimulus was given to the study of the history of ideas about property.

The radical critique if liberalism – that it was flawed by incorporation of possessive individualism – was supplemented by the critique flowing from a libertarian attachment to property rights, remembering that in this perspective all rights are in effect property rights (Ryan, 1987, p. 2). Natural rights libertarianism, with its emphasis on the inviolability of rights, could scarcely be reconciled with Benthamite utilitarianism, despite Bentham's insistence on the importance of security of property, or with J. S. Mill's more pragmatic assessment of the benefits of alternative property arrangements. Bentham, Mill (to some degree) and the new liberals were pictured in one study as deviating from the true path of liberalism, which had a tender regard for private property (Gray, 1986, pp. 28–31, 62–72). At the same time, the developing criticism of the Nozickian theory of property and justice, in particular the relationship between natural rights premisses and the apparently welfare-oriented Lockean proviso, has stimulated contemporary debate aiming to show what a coherent natural-rights based theory of property would look like. The problem, clearly enough, is to develop rules of legitimate appropriation (or constraints on legitimate appropriation) such that any two persons, at no matter what time or place, can reasonably be pictured as enjoying the same natural rights. It is here that the radical theories of the early nineteenth century turn out to be so interesting, particularly since they often tried to unite the study of property with the study of (what came to be called) exploitation. A further study provides a new interpretation of the development of ideas of property from the period to the nineteenth century (Horne, 1990). It is especially interesting that this study claims that the liberal tradition always included limitations on exclusive rights in the name of inclusive claims to resources.

If economic theories of history and the history of political thought have contributed to our understanding of the history of property, it might be expected that the legal analysis, so important to the philosophical understanding of the institution, would be flanked by a contribution from legal history. On the whole this expectation has not been realized. Perhaps because of the highly technical nature of legal history, there seems to be little integration between the economic, legal and intellectual histories. For example, Locke makes assertions about the law of inheritance in seventeenth-century England, but it is not clear that he was correct in what he took the law to be. It may well be that a deeper understanding of legal development would enrich our understanding of intellectual history in this field.

A further component of contemporary discussion about property – already mentioned in relation to the history of political thought – is the concern with justice. Harris (1996) attempts to locate justice-specific reasons for any particular configuration of property rights and emphasizes the important role of convention (cf. Reeve, 1999).

Quite apart from issues of justice across frontiers, there are also issues about property in relation to historical injustice (Waldron, 1992), the legitimacy of bequest and inheritance in the context of reducing asset-based inequality (Dowding et al., 2003; Paxton et al., 2006), the claim that 'property needs to be understood in the context of gender, race and class' (Brace, 2004, p. 3) and exploitation. Examples of market-related analyses of exploitation are provided by Marx and Miller (1987). An example of a more general theory is provided by Goodin (1987), who analyses exploitation as 'taking unfair advantage of the specially vulnerable'. But such an account can still accommodate the particular vulnerability which arises from 'economic' features, like poverty. Theories which do focus on the 'economic' – on the labour process in particular, or on market transactions more generally – will naturally address some important issues about property. This is because theories of exploitation typically combine some analysis of power relations with some account of (in)justice. This is not to say, of course, that rival theories of exploitation will share an account of 'power' or 'justice'. Indeed, the distinctiveness of a particular theory will usually be given by the interpretation of these two notions, and the relationship between them, within that theory.

Just as property is importantly implicated in the 'power' side of exploitation, so it is plausibly the centre of attention in assertions about the justice – or, in this context, injustice – of states of affairs identified with exploitative acts or situations. For example, inequality in property holdings may be cited as evidence of injustice, particularly of historical injustice in acquisition. Again, there may be a justice-based critique of positive legal property rights.

The many points of contact between a concern with property and property relations, and a theory of exploitation, are best illustrated by reference to some of the disputes surrounding Marx's account of capitalist exploitation (cf. Kymlicka, 1990, pp. 171–83). Marx's theory combines a thesis about power relations – that workers are coerced into work despite the apparent freedom of the wage contract – with an account of the generation and appropriation of surplus value – that the capitalists receive surplus value despite the worker receiving the value of labour as wages. There are important controversies about both the 'power' and 'justice' elements of this. Marx seems to argue that the capitalist class is powerful, even though individual capitalists are not. (In parallel, Cohen,1979 has argued that the proletariat is unfree, even though some proletarians are free to leave the working class.) Is this analysis of the structure of power acceptable? What is the relation between the power of the state – which defines and guarantees property rights – and the power of the capitalist class – which apparently rests on its monopoly ownership of the means of production? Is the theory primarily a political or an economic account of exploitation (Carver, 1987)? Turning to 'justice', one account holds that the theory of surplus value – even if technically sound, which is often denied – cannot supply any normative grounds to support a charge of injustice. On this view, the theory of surplus value merely describes what happens, but does not condemn it. This is because Marx was not committed to a political programme, nor to a philosophical principle, which is derived from overturning the apparent basis of normative criticism of the appropriation of surplus value. The implication would be that the worker is entitled to the full value his labour produces, but Marx criticized socialist programmes which adhered to this. Alternatively, it has been argued that having relativized values to modes of production, Marx was not in a position to use a standard of

justice derived from a form of society not yet in existence. This has led to the thought that there might be some (non-relative?) value – perhaps freedom or self-development – which was (or is) violated by the capitalist–labourer relation, or that exploitation should be identified less with the account of surplus value and more with the inequality of property ownership which is alleged to make its extraction possible.

The convergence of the analysis of property with that of justice is not confined to those trying to explicate Marx's position, or sympathetic to his outlook. The libertarian identifies injustice with rights violation, and the rights (or entitlements) are property rights. Nozick's hyperbolic remark that 'taxation is on a par with forced labour' suggests that both are equally unjust infringements of natural (property) rights. Both Marx's account of exploitation and Nozick's entitlement theory illustrate the way in which property provides a link between legal, economic and political arrangements. But whereas Nozick set out from an entitlement to the product of labour to advocate strong private property rights, others, both in contemporary philosophy and, as we have seen, historically, have doubted whether natural rights are compatible with private property, especially in non-produced resources. The question of the just distribution of the benefits of exploiting resources across frontiers in globalized conditions extends this discussion.

This point may be developed, and will bring us back to the general characterization of present-day theorizing offered earlier. It was suggested that much contemporary work focuses on the analysis of purported justifications for private property, and that it has developed an ambition to produce a more integrated theory. The integration may be thought of in two ways – as integration between possible justifications, within limits set upon what different premisses will actually sustain; and as integration between political, economic, legal, psychological and sociological concerns within a general theory. The problem for any 'single-track' justification for private property – for example, that a commitment to general utility justifies the institution, or that a commitment to a particular form of liberty does so – is the distance which has to be travelled between the generality of the value from which the argument sets out, and the details of a particular justified property system which is the destination. If we refer back to Munzer's characterization of the details of the Hohfeld–Honoré analysis, we can see just how difficult it would be to elaborate all the elements of any practical system of property. To explain how (for example) utility justifies all those elements will require reference to a great many disputable arguments on the way (cf. Becker, 1992, pp. 198–201). To take a simple case, Bentham himself placed great store by 'security' in his account of the ends of civil law, and he consequently gave it precedence over equality which might be promoted by redistribution. Hence his position was more solicitous of private property than would be the case for another utilitarian who weighted the contribution of 'security' and 'equality' to utility in the other order. It often emerges that a reassessment of one step in the argument, such as this, will lead to quite different conclusions, as Carter (1989) demonstrates for a large number of 'single-track' justifications. Alan Ryan has demonstrated the point in a rather different way in two essays which relate the theory of property to concerns with liberty (1987) and with labour expenditure (1984).

Three works which illustrate the attempt to integrate different bases of justification are those of Becker (1977), Grunebaum (1987) and Munzer (1990). Becker provided

the first modern review of the purported justifications of private property, and concluded with a suggested approach to take account of those elements of justification which had survived criticism. Grunebaum similarly argued for the justifiability of 'autonomous ownership' by trying to delineate the proper claims of self-ownership from other more limited claims over natural and produced resources, suggesting the need for a property system flanked by worldwide democracy, clearly something very different from anything that has yet been put into place. Munzer puts forward three justificatory principles and argues for a necessarily pluralist approach:

> The picture of property rights that emerges, then, locates their justification in a carefully-constructed pluralist scheme that knits together utilitarian considerations, considerations of justice of a roughly Kantian or Rawlsian kind, and considerations of desert of a thoroughly un-Rawlsian kind. (Munzer, 1990, p. 7)

All this leads Munzer to a system of constrained private property, and here there is a parallel with an extensive study by Jeremy Waldron. Waldron suggests that the arguments for private property he examines – chiefly Locke's, Nozick's and Hegel's – when passed under critical scrutiny, with defects amended, yield important distributional implications:

> The important conclusion, then, is this. Under serious scrutiny, there is no right-based argument to be found which provides an adequate justification for a society in which some people have lots of property and many have next to none. The slogan that property is a human right can be deployed only disingenuously to legitimize the massive inequality that we find in modern capitalist countries. (Waldron, 1988, p. 5)

This emphasis on the limits of justification, a concern to identify what cannot be justified by particular lines of argument, and perhaps to go on to combine different approaches in the attempt to produce a coherent theory of property, is a welcome development (Harris, 1996). It illustrates a refusal to take anything for granted, or to be carried along by the broad-brush assertions of single-track justifications. Recent work also goes beyond sceptical negativity to produce constructive proposals for reform, reform which at least some of these theories would suggest is all the more necessary as the market economy extends its sway.

References

Barzel, Y.: *Economic Analysis of Property Rights* (Cambridge: Cambridge University Press, 1989).

Becker, L. C.: *Property Rights – Philosophic Foundations* (London: Routledge & Kegan Paul, 1977).

—: 'Too much property', *Philosophy and Public Affairs*, 21 (1992), 196–206.

Brace, L.: *The Politics of Property: Labour, Freedom and Belonging* (Edinburgh: Edinburgh University Press, 2004).

Carter, A.: *The Philosophical Foundations of Property Rights* (Hemel Hempstead: Harvester Wheatsheaf, 1989).

Carver, T.: 'Marx's political theory of exploitation', in *Modern Theories of Exploitation*, ed. A Reeve (London: Sage, 1987), pp. 68–79.
Coase, R.: 'The problem of social cost', *Journal of Law and Economics*, 3 (1960), 1–44.
Cohen, G.A.: 'Capitalism, freedom and the proletariat', in *The Idea of Freedom – Essays Presented to Sir Isaiah Berlin*, ed. A. Ryan (Oxford: Oxford University Press, 1979), pp. 9–25.
—: 'Nozick on appropriation', *New Left Review*, 150 (1985), 89–105.
—: 'Self-ownership, world ownership and equality, part II', *Social Philosophy and Policy*, 3 (1986), 77–96.
—: *Self-Ownership, Freedom, and Equality* (Cambridge: Cambridge University Press, 1995).
Cunliffe, J.: 'A mutualist theory of exploitation?', in *Modern Theories of Exploitation*, ed. A Reeve (London: Sage, 1987), pp. 53–67.
—: 'The liberal rationale of "Rational Socialism"', *Political Studies*, 36 (1988), 653–62.
—: 'The neglected background of radical liberalism; P. E. Dove's theory of property', *History of Political Thought*, 11 (1990), 467–90.
Dan-Cohen, M.: 'The value of ownership', *The Journal of Political Philosophy*, 9 (2001), 404–34.
Demsetz, H. 'Some aspects of property rights', *Journal of Law and Economics*, 9 (1966), 61–70.
Dowding, K., de Wispelaere J. and White, S., eds: *The Ethics of Stakeholding* (New York: Palgrave Macmillan, 2003).
Goodin, R. E. : 'Exploiting a situation and exploiting a person', *Modern Theories of Exploitation*, ed. A. Reeve (London: Sage, 1987), pp. 166–200.
Gray, J.: *Liberalism* (Milton Keynes: Open University Press, 1986).
Grunebaum, J. O.: *Private Ownership* (London: Routledge and Kegan Paul, 1987).
Harris, J.W.: *Property and Justice* (Oxford: Clarendon Press, 1996).
Hegel, G.: *Hegel's Philosophy of Right* (1821), ed. T. Knox (Oxford: Clarendon Press,1942).
Hohfeld, W. N.: *Fundamental Legal Conceptions as Applied in Judicial Reasoning* (New Haven, Conn.: Yale University Press, 1919).
Honoré, A. M.: 'Ownership', in *Oxford Essays in Jurisprudence*, ed. A. G. Guest (Oxford: Oxford University Press, 1961), pp. 107–47.
Horne, T.: *Property Rights and Poverty – Political Argument in Britain, 1605–1834* (Chapel Hill, NC: University of North Carolina Press, 1990).
Kymlicka, W.: *Contemporary Political Philosophy – An Introduction* (Oxford: Clarendon Press, 1990).
Libecap, D. L.: *Contracting for Property Rights* (Cambridge: Cambridge University Press, 1989).
Locke, J.: *Two Treatises of Government* (1689), ed. P. Laslett (Cambridge: Cambridge University Press, 1988).
Macpherson, C. B.: *The Political Theory of Possessive Individualism* (Oxford: Clarendon Press, 1962).
— ed.: *Property: Mainstream and Critical Positions* (Toronto: Toronto University Press, 1978)
Miller, D.: 'Exploitation in the Market', in *Modern Theories of Exploitation*, ed. A. Reeve (London: Sage, 1987), pp. 149–65.
Munzer, S. R.: *A Theory of Property* (New York: Cambridge University Press, 1990).
— ed.: *New Essays in the Legal and Political Theory of Property* (Cambridge: Cambridge University Press, 2001).
North, D. C. and Thomas, R. P.: *The Rise of the Western World* (Cambridge: Cambridge University Press, 1973).
Nozick, R.: *Anarchy, State and Utopia* (Oxford: Blackwell, 1974).
Otsuka, M.: *Libertarianism without Inequality* (Oxford: Clarendon Press, 2003).
Parel, A., and Flanagan, T., eds: *Theories of Property: Aristotle to the Present* (Ontario: Wilfrid Laurier University Press, 1979).

Paxton, W. and White, S. with Maxwell, D., eds: *The Citizen's Stake: Exploring the Future of Universal Asset Policies* (Bristol: Policy Press, 2006).
Reeve, A.: *Property* (Basingstoke: Palgrave Macmillan, 1986).
—: 'Thomas Hodgskin and John Bray: free exchange and equal exchange', in *Modern Theories of Exploitation*, ed. A Reeve (London: Sage, 1987), pp. 30–52.
—: 'The theory of property: beyond private *versus* common property', in *Political Theory Today*, ed. D. Held (Cambridge: Polity Press, 1991), pp. 91–114.
—: 'Convention and justification: Professor Harris on property and justice', *Oxford Journal of Legal Studies*, 20 (1999) 323–35.
Ryan, A.: *The Political Theory of Property* (Oxford: Blackwell, 1984).
—: *Property* (Milton Keynes: Open University Press, 1987).
Vallentyne, P.: 'Critical notice', *Canadian Journal of Philosophy* 28 (1998), 609–26.
Waldron, J.: *The Right to Private Property* (Oxford: Oxford University Press, 1988).
—: 'Superseding historical injustice', *Ethics* 103 (1992), 4–28.
White, S.: *The Civic Minimum: on the Rights and Obligations of Economic Relationships* (Oxford: Oxford University Press, 2003).

Chapter 43

Republicanism

KNUD HAAKONSSEN

In the 1960s republic and republicanism hardly figured in political theory. Today they are prominent, if highly contested, topics in political thought in the English-speaking world. While there may be many reasons for this, undoubtedly a particularly important factor was one of the periodic convulsions in the American search for identity. From the late 1960s onwards, American scholars launched a sustained criticism of the assumption that America was founded on the institutionalization of a complex of ideas identified broadly as individualistic liberalism and began a long and fertile search for alternative roots (see especially Bailyn, 1967), which were soon identified as republican (see especially Wood, 1969; cf. Shalhope, 1972; 1982). This endeavour on the part of American historians was quickly supplemented by a magisterial interpretation of the whole of Anglo-American political culture in the early modern period as predominantly a development of the civic humanist republicanism hammered out in Renaissance Italy (Pocock, 1975), a topic that was undergoing its own rapid development (e.g. Baron, 1955; Skinner, 1978, vol. I). The result was a rich historical panorama of the development of republican ideas and practices from the Renaissance to our own time: the Italian cities attempting to avoid princely rule by basing republican government on the virtues of an aristocracy; the Dutch provinces shoring up their independence from Iberian monarchy by developing that new and controversial government, republics based on commercial, not landed, wealth; the English Commonwealth which, though short-lived, helped to secure the continuing influence of republican ideas and enabled people in the eighteenth century to see Britain's mixed constitution as that apparent paradox, a monarchical republic – and one based on representation; the American Revolution which, by renewing the idea of federation, refuted the traditional republican dogma that a republic could not exist in a large country and, in the process, made republicanism decisively anti-aristocratic; the French Revolution which transformed so much of republican thought into a still continuing debate about democracy.

In view of the overwhelming success of the republican idea in practice, it is perhaps surprising to see it revive as a potent factor in recent political theory, and even more so that the historiography of its success should have inspired and informed this revival (e.g. Skinner, 1984; 1998; 2002; Fraser, 1984; Lerner, 1987; Vetterli and Bryner, 1987; Pangle, 1988; Isaac, 1988; Sunstein, 1988; Boyte, 1989; Pettit, 1989a; Bock et al., 1990; Braithwaite and Pettit, 1990; Pettit, 1997; McKinnon and

Hampsher-Monk, 2000). A brief consideration of the historical roots of the republican idea will make possible a better appreciation of its transformation.

'Republic' is the Anglicized form of the Latin *res publica*, which originally was contrasted with *res privata*. It was the public realm of affairs that people had in common outside their familial lives, and traditionally has also been identified as the common weal. *Res publica* also meant the institutional structures of public life and can often be translated as 'the commonwealth' or simply, though anachronistically, 'the state'. The idea of *res publica* as the institutionally organized public realm rather than a particular form of organization, or government, may seem far removed from the modern sense of the word 'republic', but it should be remembered that this basic meaning of the Latin was preserved from republican Rome, through the Empire, the Middle Ages and Early Modern times until well into the eighteenth century in nearly every variety of political theory.

The association of 'republic' with a particular organization of the public realm owes much to the course of Roman history. As the traditional constitutional arrangement, with its elements of democracy, aristocracy and 'monarchy', crumbled and eventually became the principate, its defenders represented it as the only way in which the public realm could be properly organized and the common weal secured. *Res publica Romana* thus acquired a normative, ideal-typical reference to the way in which Rome's public realm was supposedly arranged between the expulsion of the Roman monarchs in 510 BC and the first *princeps*, Augustus, in 31 BC. So important was this normative concept that for 300 years the 'emperors' continued to call themselves *principes*, chief men, and generally went to some lengths to maintain the outward forms of republican government.

The crux of the ideal type of the Roman *res publica* was that the people (*populus*, giving the adjective *publicus*) had a decisive say in the organization of the public sphere and this understanding linked the idea of an organized public realm in general to that of a specific form, or rather source, of such organization – namely 'the people' – thus creating the basis for modern concepts of 'republic'.

Disregarding its rather subterranean life during the Middle Ages, it was this idea of republic that was revived in the Italian city-states during the Renaissance and let loose on Europe in the spectacular way indicated above. We may express the composite nature of the concept by saying that, in a republic, public affairs are looked after by the public, but this word play should not be extended to suggest that in a commonwealth the common weal is necessarily looked after by the commonalty. The great debates about and experiments with republicanism in post-Renaissance Europe were all centrally concerned with who could and should count as the public from which order and governance in the public realm was to be derived. In these debates, let alone experiments, the extension of the people to include the common people was a late and hard-won achievement. In fact, in most parts of the world, it was only in the twentieth century that property qualifications for participation in the political process were abolished.

Traditional republicanism linked citizenship and property because only the propertied man was thought able to sustain the key republican virtues of independence and honour. Private means fostered independence from other men – there was never any public room for women in the republic – in the vote of the assembly; and ownership of property encouraged honourable self-defence. This strongly individualistic side to

traditional republicanism was balanced by a desire, sometimes bordering upon mania, for designing institutions to ensure that no individual or group should become so independent and imbued with honour as to dominate the rest. Hence the concern with limiting the influence of wealth – sometimes by limiting wealth itself – by rotating offices, frequent elections, ballots, separation of powers and functions, general militia service, and much more.

While the link between property and citizenship was firm, one of the most difficult points for republican thinkers, especially in the English-speaking world in the eighteenth century, was whether property other than land counted. The growing wealth of commerce – which eventually became capitalism – seemed too fluid and easily transferable to give a man any stake in his country, and it immediately proved distastefully intertwinable with the conduct of government, as Adam Smith spent half a million words explaining and denouncing in *The Wealth of Nations*. According to liberal democratic theory this Gordian knot was cut by the democratic revolution, which supposedly set aside the republican obsession with the link between property and citizenship. The contemporary revival of republican thought is centrally aimed at questioning this liberal democratic thesis, pointing out that the formal equality of citizens in the liberal democratic state is not reflected in the conduct of government, which instead is determined, not by the common weal, but by the particular, if not private, weal of interest groups and individuals. In these criticisms republicanism is, of course, joined by other critics, many of them from within liberal democratic theory itself. The distinctive feature of the republican argument is that it is set in the context of an historical thesis, and its current prominence in contemporary political theory has been triggered by the new historiography of the republican tradition.

The new history of republicanism is an impressive piece of subtle, complex revisionism, which may be briefly summarized as follows. Liberal theorists had for long maintained that they inherited a tradition, stretching back to Hobbes, Locke and beyond, according to which civil society is a security organization mutually agreed upon by individuals whose central characteristic is that they each have natural rights. Republican critics hold that this was historically false, creating a distorted view of contemporary society and simply ignoring the fact that Anglo-American politics was dominated by a conceptual apparatus derived from the republican tradition as revived and shaped in the Renaissance. True, the juristic rights tradition emphasized by liberalism was present, but it only came to prominence after the democratic revolution, as an ideological smokescreen for the inadequate outcome of that revolution. To dispel this we must appreciate that behind it are institutions that were decisively formed by republican ideas and which will only function adequately if we recapture republican ways of being citizens.

This republican revisionism has redressed the balance of the historical picture left by the more simplistic versions of liberal mythology, but in the process new myths have been created. It is impossible to see the division between a juristic-liberal and a republican tradition as fundamental to post-Renaissance political thought. In Locke, Montesquieu, Rousseau, Price, most of the Scottish Enlightenment thinkers and the American founders – to take a wide selection – elements from both traditions go hand in hand. It is not between natural rights and republican citizenship that the fault lines lie. An important reason why republican scholars so often think otherwise is that they

themselves believe the old liberal tale that ideas of natural rights, where they occur, are deeply individualistic and subjectivist. In fact, there have been few thinkers of note for whom rights were the primary moral feature of the individual upon which the rest of morality and its institutions had to be built. The pervasive view was that rights were to be understood in relationship to duty and that both were dependent upon a universal, justifying moral order which was commonly thought of in terms of natural law. Natural law theory thus provided the means for understanding the combination of interdependent duties and rights which made up the various roles or stations in life, including the roles of citizen and civic office-bearer (Haakonssen, 1990; 1996; 2004). In their early-modern formulations, natural law theory and republican theory may be considered as different genres and of different scope but they are not inherently incompatible. Natural law, though often adapted to suit absolute monarchy, was equally readily adapted by republicans, the most spectacular example being the American founders.

The opposition between liberalism and republicanism, while a source of inspiration for the recent revival of the latter, is more an invention of this revival than ascertainable historical fact. The same may be said of another, closely associated phenomenon, the warm embrace of republican ideas by communitarianism (e.g. Sandel, 1982; 1984a; 1984b; 1996; Barber, 1984; Boyte and Schwartz, 1984; Green, 1985; Oldfield, 1990). This rests upon the traditional republican notion of the ‘virtue’ that is required and generated in the republic, a tradition now commonly known as civic humanism. Such a tradition undoubtedly exists, but despite its roots in Aristotle, in the early-modern and modern period it hardly delivers anything like that with which the communitarians and other modern moral theorists want to mesh their republicanism. A striking feature of traditional republicanism is that, for all its talk of virtue, it rarely presents anything that can be called a moral theory. At most, there may be an invocation of Aristotle or neo-Stoic ideas to support what is little more than an intuitive and tradition-bound concept of the wholeness of character that is required of the independent citizen. The parts of the whole character are, however, largely determined in terms of the public functions or offices required by the republican constitutional machinery. Of course, respect for republican forms is emphasized and, in that sense, a republican ethos inculcated. But this is a far cry from the ethical way of life detailed by communitarian and other contemporary moralists. The traditional republican tirades against ‘corruption’ and ‘luxury’ had little to do with immorality as such, being primarily protests against intermixing one’s private life, whether good or bad, with the public concerns, especially in economic matters. Thus, republican virtue represented a partial, institutionally circumscribed view of the moral life, and a republic the institutionalization of traditional public duties and the associated rights of the man of independent means.

It has been argued that this view of republicanism has some significant affinities with the negative ideal of liberty – an absence of interference with one’s independence – that lies at the core of modern liberalism (Skinner, 1984; 1998; Pettit, 1989a; 1989b; 1997) and, further, that the moralizing notions of civic empowerment or positive liberty found in communitarianism are a misunderstanding of republican liberty (Pettit, 1997). Yet an important distinction between the liberal and republican notions of negative liberty remains, according to this view; while liberalism is centrally concerned with the absence of interference with people’s independence, republicanism extends the

ideal to include the absence of the danger of interference. In a republic, not only is one not interfered with but the republican institutions secure one against such interference. One has not only liberty, but 'resilient' liberty. It was this 'neo-Roman', specifically Ciceronian, conception of republicanism that Machiavelli revived (Skinner, 2002, vol. 2) and with which thinkers from Grotius (Brett, 2002) and Hobbes (Skinner, 2002, vol. 3) onwards had to come to grips, whether negatively or positively.

Republican liberty, so formulated, may seem to amount to little more than the old liberal ideal of equal freedom under the law, but the suggestion goes further. In the republican conception, it is suggested, danger of interference is only really absent when each individual can obviate such danger. The point of a republic is therefore to put each individual in a position where he or she can live in resilient, self-asserted freedom. The independence that in traditional republics was derived from owning property must in the new republic be derived from simply being a person. Considered as a historical process, this transition has become the object, and paradigm, for a rich array of scholarly work (epitomized in van Gelderen and Skinner, 2002).

The problem with this idea of republican negative freedom, resilient freedom, is much the same as the problems that have always been perceived in the liberal ideal of negative freedom. As long as the pursuits of individuals are likely to involve them in occasional interference with each other, we need some criterion to decide which aspects of the individual's independence warrant the special protection of the law. The liberal tradition has generally tried to formulate this by means of the concept of rights, and one strand of liberalism has as its ideal a negative concept of rights. The suggested republican idea of negative liberty shifts the problem but does not solve it. The problem is now which forms of resilience should be backed or instituted by law. The typical case will arise from the inequalities of the market, e.g. the labour market, where one has to ask, how much equality has to be instituted in order for each individual to have resilient freedom? In the traditional republic, resilience was determined by traditional ideas of property-based independence. This was what was called citizenship. The challenge to the new republican theorist is to find a principled replacement for this, suitable for an egalitarian republic. In short, even in its contemporary revival, republican theory continues to centre on the problem of what should be the qualifying criteria for membership of the public in its governance of the public realm. Traditional liberalism sidestepped the issue by separating the question of the source of government from the question of the exercise of government, leaving the former to democratic theory. The new republicans still have to find a plausible answer.

References

Bailyn, B.: *The Ideological Origins of the American Revolution* (Cambridge, Mass.: Harvard University Press, 1967).

Barber, B.: *Strong Democracy: Participatory Politics in a New Age* (Berkeley, Calif.: University of California Press, 1984).

Baron, H.: *The Crisis of the Early Italian Renaissance. Civic Humanism and Republican Liberty in an Age of Classicism and Tyranny* (Princeton, NJ: Princeton University Press, 1955; 2nd edn, 1966).

Bock, G., Skinner, Q. and Viroli, M., eds: *Machiavelli and Republicanism* (Cambridge: Cambridge University Press, 1990).

Boyte, H. C.: *Commonwealth: A Return to Citizen Politics* (New York: Free Press, 1989).

Boyte, H. C. and Schwartz, J.: 'Communitarianism and the left', *Dissent*, 31 (1984), 475–81.

Braithwaite, J. and Pettit, P.: *Not Just Deserts: A Republican Theory of Criminal Justice* (Oxford: Clarendon Press, 1990).

Brett, A. S.: 'Natural right and civil community: the civil philosophy of Hugo Grotius', *Historical Journal*, 45 (2002), pp. 31–51.

Fraser, A.: 'Legal amnesia: Modernism versus the republican tradition in American legal theory', *Telos*, 60 (1984), 15–52.

van Gelderen, M. and Skinner, Q., eds: *Republicanism: A Shared European Heritage*, 2 vols (Cambridge: Cambridge University Press, 2002).

Green, P.: *Retrieving Democracy: In Search of Civic Equality* (Totowa, NJ: Rowman and Littlefield, 1985).

Haakonssen, K.: 'Introduction', in *Thomas Reid, Practical Ethics. Being Lectures and Papers on Natural Religion, Self-Government, Natural Jurisprudence and the Law of Nations*, ed. K. Haakonssen (Princeton, NJ: Princeton University Press, 1990), pp. 1–99.

—: *Natural Law and Moral Philosophy: From Grotius to the Scottish Enlightenment* (Cambridge: Cambridge University Press, 1996).

—: 'Protestant natural law theory: a general interpretation', in *New Essays on the History of Autonomy. A Collection Honoring J. B. Schneewind*, ed. N. Brender and L. Krasnoff (Cambridge: Cambridge University Press, 2004), pp. 92–109.

Isaac, J. C.: 'Republicanism vs. liberalism? A reconsideration', *History of Political Thought*, 9 (1988), 349–77.

Lerner, R.: *The Thinking Revolutionary: Principle and Practice in the New Republic* (Ithaca, NY: Cornell University Press, 1987).

McKinnon, C. and Hampsher-Monk, I., eds: *The Demands of Citizenship* (London and New York: Continuum, 2000).

Oldfield, A.: *Citizenship and Community, Civic Republicanism and the Modern World* (London and New York: Routledge, 1990).

Pangle, T. L.: *The Spirit of Modern Republicanism: The Moral Vision of the American Founders and the Philosophy of Locke* (Chicago, Ill.: University of Chicago Press, 1988).

Pettit, P.: 'The freedom of the city: a republican ideal', in *The Good Polity*, ed. A. Hamlin and P. Pettit (Oxford: Blackwell, 1989a), pp. 141–68.

—: 'A definition of negative liberty', *Ratio*, NS 2 (1989b), 153–68.

—: *Republicanism: A Theory of Liberty and Government* (Oxford: Oxford University Press, 1997).

Pocock, J. G. A.: *The Machiavellian Moment: Florentine Political Thought and the Atlantic Republican Tradition* (Princeton, NJ: Princeton University Press, 1975).

Sandel, M.: *Liberalism and the Limits of Justice* (Cambridge: Cambridge University Press, 1982).

— ed.: *Liberalism and Its Critics* (Oxford: Blackwell, 1984a).

—: 'The procedural republic and the unencumbered self', *Political Theory*, 12 (1984b), 81–96.

—: *Democracy's Discontent: America in Search of a Public Philosophy* (Cambridge, Mass.: Belknap Press, 1996).

Shalhope, R. E.: 'Toward a republican thesis: the emergence of an understanding of republicanism in American historiography', *William and Mary Quarterly*, 3rd ser., 29 (1972), 49–80.

—: 'Republicanism and early American historiography', *William and Mary Quarterly*, 3rd ser., 39 (1982), 334–56.

Skinner, Q.: *The Foundations of Modern Political Thought*, 2 vols, vol. I: *The Renaissance* (Cambridge: Cambridge University Press, 1978).

—: ‘The idea of negative liberty’, in *Philosophy in History*, ed. R. Rorty, J. B. Schneewind and Q. Skinner (Cambridge: Cambridge University Press, 1984), pp. 193–221.
—: *Liberty before Liberalism* (Cambridge: Cambridge University Press, 1998).
—: *Visions of Politics*, 3 vols (Cambridge: Cambridge University Press, 2002).
Sunstein, C. R.: ‘Beyond the republican revival’, *The Yale Law Review*, 97 (1988), 1539–90.
Vetterli, R. and Bryner, G.: *In Search of the Republic: Public Virtue and the Roots of American Government* (Totowa, NJ: Rowman and Littlefield, 1987).
Wood, G. S.: *The Creation of the American Republic, 1776–1787* (Chapel Hill, NC: University of North Carolina Press, 1969).

Chapter 44

Responsibility: Personal, Collective, Corporate

CHRISTOPHER HEATH WELLMAN

There are a number of controversies surrounding responsibility, but few doubt that there is anything conceptually confused or morally problematic about holding competent adults responsible for their free and informed actions. Thus, we regularly praise (and perhaps reward) people for behaving virtuously or blame (and perhaps punish) them for their vicious deeds. In today's world, though, much of the most important good and evil is done not by solitary individuals, but by groups of people acting in concert. The most spectacular technological advances and the most horrific wars, for instance, are often the work of private corporations and political states. And if humanity regularly achieves its greatest triumphs and commits its most deplorable sins as collectives, it is worth exploring the plausibility of holding groups responsible for their actions.

For both conceptual and moral reasons, however, it might seem wrong-headed to attribute responsibility to groups. As a conceptual matter, even if it would make sense to speak of a group acting in anything like the way that a free and informed person might (which is questionable), there is no need to do so. This is because groups cannot act without individuals acting, and thus we need look no further than the individual acts of the group's constituents to explain group action. As a consequence, we have no need to construct an elaborate fiction of group action; we can simply assign responsibility to the individuals acting within the context of the group. And as a moral matter, it is hard to question value-individualism, the view that groups derive their value solely from contributing to the well-being of individuals. And if groups are valuable only insofar as they contribute to the lives of individuals, then we might equally think them inappropriate objects of praise and blame. In short, if groups do not in themselves matter morally, then how can it make sense to attribute responsibility to them?

Group responsibility is something about which reasonable people can disagree, but neither of these particular concerns is insuperable. Consider first why value-individualism, even if true, poses no problem for defenders of group responsibility. To appreciate this point, notice that being a moral agent (i.e., being potentially bound by moral duties) is distinct from being a moral subject (i.e., being entitled to moral consideration) and, as a consequence, different features might qualify one for these different statuses. An elementary mistake regarding the status of non-human animals, for

instance, is to conclude that they cannot have moral rights because they do not have moral duties. This reasoning is faulty, because nothing about being a moral subject follows from the fact that animals cannot be moral agents. While their capacity to suffer clearly does not make animals moral agents, it might make them moral subjects. For similar reasons, value-individualism does not entail that groups cannot be moral agents. Value-individualism may show that groups cannot be moral subjects (in the most fundamental sense), but just as a non-human animal might be a moral subject without being an agent, a group might well be an agent without being a subject. There may be other reasons why a group cannot be an agent, of course, but their lack of agency does not follow from the putative fact that groups have no value independent of their contribution to the well-being of individuals. And if the truth of value-individualism does not imply that groups cannot be agents, then value-individualism appears to be irrelevant to the debate over collective responsibility.

The chief conceptual issues concerning collective responsibility are twofold and more difficult. First, it is thought that because groups cannot act, it could not make sense to ascribe responsibility to them. And second, even if there are cases in which we might sensibly say that groups act, there is no reason to do so because this collective action is nothing more than (and better analysed in terms of) the actions of various individuals within the group. Consider these two points in turn.

I agree that many groups do not act, but it surely seems as though some do. Collectives like the class of left-handed, red-haired people seem incapable of acting as a group, for instance. And if a group like this cannot act, it certainly cannot act in the free and informed fashion that most think is necessary for the ascription of responsibility. But from the mere fact that some groups seem incapable of acting it does not follow that no group can act. In particular, while unorganized groups seem incapable of collective action, some suitably organized groups clearly seem to be agents. As Virginia Held notes, 'We often assert, without difficulty, such empirical statements as "The corporation manufactures X," or "State W provides higher welfare payments than state Y," or "The Democratic Party nominated Z" ' (Held, 1991, p. 90). What is more, we regularly hold collectives responsible for their actions. There seems nothing mysterious about holding a cigarette company liable for deliberately marketing addictive products to children or sanctioning a country for waging an aggressive war, for instance. Put plainly, while many groups seem incapable of acting as a collective, groups with the requisite corporate structure routinely appear to act, and it is not unusual for us to hold them responsible for their actions.

One might object that what I mistake as group action is no more than the actions of certain individuals within a group, because groups are nothing but mere collections of individuals. The case of a country putatively waging an aggressive war, for instance, can be fully explained in terms of the actions of politicians who declared the war, military leaders who organized and ordered the military campaign, and soldiers who carried out the orders. Most importantly, if one subtracted all of these individual actions, there would be no remainder, nothing the country does that cannot be straightforwardly analysed in terms of individual actions.

This criticism is not without merit; a group could not act without any of its individual members acting. Still, this worry does not strike me as decisive because not all groups are mere collections of individuals. Groups like financial corporations and

political states may be more than the mere sum of their several members because they also have an organizational structure. What is more, this corporate structure helps explain why speaking only of the actions of individuals would necessarily miss an important part of the picture. While it is true that a country could not wage war unless a number of political officials declared war, these individuals can issue this declaration only because of their positions within the organizational structure. Anyone can utter the words 'I hereby declare war on Enemyland', but such an utterance puts one's country legally at war only if one occupies the requisite position within the organization. Recall President Clinton's apology in 1993: 'Today, on behalf of your fellow Americans, I offer a sincere apology to you for the actions that unfairly denied Japanese Americans and their families fundamental liberties during World War II' (Clinton). Imagine that I too apologized to Japanese Americans for the way that the United States treated them during the Second World War. Suppose further that my apology was honest and heartfelt, while Clinton's was begrudging (issued only for political gain). Even under these circumstances, my sincere utterance does not amount, whereas Clinton's insincere utterance does, to an apology by the United States.

If this is right, then there is a difference between a person acting as a president of a country, say, and acting as a left-handed, red-haired person. While the actions of all left-handed, red-haired people are merely a collection of individual actions, the actions of a country's political leaders cannot be reduced without remainder to the actions of individuals. The remainder, the extra element left over when political leaders' actions are analysed solely as the acts of individuals, is the consequences these actions have for the group, *qua* group.

Neither value-individualism nor the fact that groups can act only through the actions of their individual members entails then that groups cannot be agents, rightly held responsible for their collective actions. Still, even if it is not conceptually implausible to make attributions of group responsibility, we might have good moral reasons to refrain from doing so. In particular, one might worry that shining the spotlight on the group's responsibility relegates to the shadows more important facts about the praise and blame due to the individuals within a group. If we focus on whether a country as a corporate body politic is responsible for waging an unjust war, for instance, then we are less likely to attend to the individual agents who acted in the ways required for the country as a whole to go to war. This is doubly problematic: it would not only be lamentable (if not unjust) to let the bad acts of these individuals go unpunished, but also wrong to blame the country as a group when some citizens may not be the least bit responsible for the country's waging the unjust war. As H. D. Lewis proclaimed, 'If I were asked to put forward an ethical principle which I considered to be especially certain, it would be that no one can be responsible, in the properly ethical sense, for the conduct of another. Responsibility essentially belongs to the individual' (Lewis, 1991, p. 17). More concretely, think how inappropriate it would be to claim only that a country as a group is responsible for an unjust war, when some politicians supported the war solely for personal gain while other, less powerful citizens struggled mightily to keep the state out of war. Presumably the hawks deserve special condemnation while the doves may even deserve praise for their anti-war efforts. But these distinct appraisals are all lost if we merely issue a sweeping judgement that the country as a whole is liable for waging an unjust war.

This is an important objection; we should never lose sight of the fact that people who behave in relevantly different fashions should be judged in correspondingly different manners. It is important to recognize, though, that attending to group responsibility does not require us to neglect personal responsibility and that different individuals may be responsible to very different degrees. To see this, consider what we might say about Germany's role in the Second World War. If my arguments about the conceptual plausibility of collective responsibility are sound, then there is nothing especially problematic about saying that Germany as a country should be held responsible for waging an unjust war. After all, Germany had the requisite corporate structure, and its war-related conduct was utterly horrendous. What is more, this attribution of collective liability is useful, if not necessary, to justify a number of plausible judgements about what types of reparations Germany as a country should make to the various victims. But notice: assigning responsibility to Germany as a whole in no way precludes us from also holding individuals responsible for their own conduct in the war in a way that acknowledges that different Germans were responsible to varying degrees. We can hold Germany as a whole responsible for waging an unjust war and simultaneously single out individuals like Adolf Eichmann for their especially culpable conduct and reserve the highest praise for people like Oskar Schindler, who bore considerable risks to save Jews.

In sum, there is nothing about assigning responsibility to groups that precludes us from also ascribing responsibility to persons based upon their individual conduct. Attributions of group responsibility can be a helpful supplement to, rather than merely a poor substitute for, our standard ascriptions of individual responsibility. Indeed, if authors like Larry May are right, attending to group responsibility can actually pave the way towards more fitting and nuanced assignments of individual responsibility insofar as a heightened attention to the roles persons play within the organizational structure of groups can illuminate more precisely how each of them is responsible for the collective actions (May, 1987). Thus, not only do we add important insights about group responsibility to our initial attributions of individual responsibility, but this focus on groups may heighten our understanding of how and why people should be praised and blamed as individuals.

With the preceding in mind, let us consider what we might say about the responsibility of both Germany as a corporate body politic and individual Germans for the atrocities of the Second World War. To begin, both because it waged an aggressive war and because it engaged in a mass campaign to exterminate Jews (and others), Germany could rightly be held responsible for its horrendous conduct. Holding a country as a whole liable for such deeds can mean any number of things; in this case, I think it is clear that Germany forfeited its right to self-determination (which is why Germany could not rightfully object to being attacked, being forcibly partitioned into East and West Germany, or having its leaders subjected to international criminal law at the Nuremberg trials). As emphasized above, claiming that Germany as a whole is responsible for its misdeeds does not require us to deny that individual Germans can also be responsible, as individuals, for their personal conduct. Clearly those leaders who actively steered the country down its horrible course may be held accountable for their leading roles in the disaster. Perhaps less obviously, though, many ordinary citizens – even those who never conceived of themselves as being particularly supportive of the regime

and its policies – may also be responsible, as individuals, for Germany's veering so dramatically off the moral course. To appreciate why this is so, notice that for a political unit to act in a given fashion, it is not enough merely to have high-level officials actively push for such action or even to have many citizens wholeheartedly support it; it is also necessary that the vast majority of constituents acquiesce rather than actively resist (or at least distance themselves from) the relevant policies. In the particular case of Nazi Germany, much of the responsibility may rest upon those citizens who were not antecedently disposed towards or personally invested in an extreme campaign of anti-Semitic violence, but who nonetheless continued to vote, pay taxes and attend rallies without ever seriously opposing the government as it became increasingly racist, violent and bellicose. Put plainly, a big part of the problem was that so few Germans offered any real resistance as the government gradually but decidedly lost its moral bearings.

In fairness, it is important to recall that one is principally responsible for one's behaviour only when it is free and informed. This is relevant to the case at hand because the Nazi government masterfully spiked the punch with just the right doses of propaganda and coercion. Thus, to the extent that ordinary citizens were either genuinely deceived about what was going on or reasonably feared that resistance would be severely punished, it may be inappropriate to find them culpable for offering no effective opposition. But when there were so few defections from and so little effective resistance to such a vile and destructive regime, we should be thoroughly convinced that the average citizens were genuinely deceived or credibly threatened before we conclude that their acquiescence was in no way blameworthy. Whatever we decide in this particular case, though, our general conclusions seem clear: (1) groups like political states which have the requisite organizational structure appear capable of acting as a group and can be held responsible, *qua* group, for their actions; (2) key players within the group can be singled out as particularly responsible, as individuals, for their roles in moving the group to act; and (3) even minor players who never conceive of themselves as deliberately supporting the group's actions may sometimes be held responsible for tacitly supporting this conduct by failing to either disassociate from or offer any real resistance.

To this point we have restricted our focus to the least controversial candidates for group responsibilities, groups like business corporations or political states, which clearly have formal organizational structures. A number of theorists have argued that responsibility can also be assigned to various other types of groups. Virginia Held has suggested that a 'random collection of individuals' might be responsible for their acts (Held, 1991); Larry May and Robert Strikwerda have argued that men in general might be responsible for sexual violence against women (May and Strikwerda, 1994); David Miller has explained how culturally based nations can be responsible for economic outcomes (Miller, 2004); and Joel Feinberg has explored whether a group like the whites in the post-bellum American South can be held responsible for the harms of the racist culture (Feinberg, 1991). It is controversial in what sense (if any) these types of groups can be responsible, but theorists often allege that these less organized groups can at least be responsible in a distributive sense. (Groups are said to be 'non-distributively' responsible when the group itself is responsible; they are 'distributively' responsible when the group's members are responsible as individuals.) That is, whether

or not any of the collectives listed above is responsible *qua* group, the members of these groups share a (perhaps unevenly) distributed responsibility for their cumulative actions.

To see this, let us look more closely at Feinberg's example. In the post-bellum South, whites occupied a privileged status, and blacks were second-class subjects. Even if one believes that whites cannot be held responsible for this crippling racism in the same way that a corporate entity might be, it does seem that whites are somehow collectively responsible for the oppressive conditions under which blacks lived. Thus, while many think that their lack of corporate structure entails that Southern whites cannot be responsible, *qua* group, it is common to suppose that Southern whites were each responsible, as individuals, for their personal roles in creating and sustaining this racist culture. The rationale for this conviction is readily explicable in light of our discussion above: just as citizens in Nazi Germany were responsible for either supporting or resisting the political regime, so each Southern white was responsible for either supporting or resisting the racist culture.

The crucial point is that cultures are not natural kinds that simply fall from the sky; they are social constructs which come into existence, endure and evolve only because of the actions of humans. A culture may owe its specific contours to the highly magnified influence of a handful of elites, but these elites exert an influence only to the extent that they are in fact respected by the masses. Martin Luther King, Jr. was an extremely powerful agent of change in the South, for instance, only because so many inspired individuals were courageous enough to follow his lead. And once one acknowledges that the trajectory of a culture's evolution depends upon whether individuals either accept or challenge its norms, one can see that there is a very real sense in which there are no innocent bystanders: virtually all adults within the dominant culture are either part of the problem or part of the solution. In the post-bellum South, the resistance to change obviously came from the white community. Thus, whether or not (and at what pace) the South rejected its practice of apartheid depended on the rate at which individual white Southerners were willing to openly question and resist the racist cultural norms. Most importantly, as we saw in the case of Nazi Germany, those non-resisters who never consciously took any action to deliberately support the racist culture (they never joined the Ku Klux Klan or participated in a lynching, for instance) were still part of the problem. Even if these average citizens can point to others more responsible for the oppressive racism, mere acquiescence on the part of the masses is part of the environment required for a culture to endure. Thus, like the soil that enables trees to grow tall, all non-resisters play a vital part in creating a setting in which other whites feel comfortable belonging to groups like the Ku Klux Klan (and blacks feel uncomfortable looking whites in the eye). In sum, one need not make unreasonable sacrifices to fight racism (clearly no one is morally required to go to the heroic lengths that Martin Luther King, Jr. went to become an agent of change, for example), but each white in the post-bellum South was responsible for the extent to which she either supported or opposed the terrible racism.

If you are like me, you might sometimes wonder how you would have behaved had you lived either in Nazi Germany or the post-bellum South. Would we have been among those wise and courageous few who recognized the gravity of the injustice and struggled mightily for reform, or would we have been among the masses who either

did not appreciate how unjustly things were ordered or were simply too lazy or scared to offer any opposition? Those especially confident about their moral mettle might lament that they did not live when heroes were in such short supply, while others among us may thank our lucky stars that we do not live in a time when one's humanity is so severely tested. I must confess that I share both of these sentiments. As I will now argue, however, all of this counterfactual speculation is unnecessary because we currently live within a culture and among political institutions which are horribly unjust. Thus, just like the citizens in Nazi Germany and the whites in the post-bellum South, we live among horrendous injustice, injustice that leaves virtually no opportunity for remaining on the sidelines. Each of us has only two options: we must choose whether to be part of the problem or part of the solution.

Moral progress has been made; the world today is considerably less unjust than in previous centuries. Still, virtually every society continues to tolerate deplorable levels of racism, sexual violence against women or cruelty to non-human animals. Rather than focus on any of these cases of injustice within societies, however, I would like here to call attention to existing international relations. In particular, I shall invoke Thomas Pogge's work on world poverty to argue that people in today's wealthy, politically powerful states may occupy a position morally analogous to the Aryan citizens in Nazi Germany or the whites in the post-bellum South (Pogge, 2002).

At first blush, it seems absurd to compare today's wealthy Westerners to Nazi Germans or post-bellum Southerners; after all, the latter actively harmed their victims while we in the so-called developed societies seem at most guilty of doing too little to help the millions of people currently starving to death. According to Pogge, however, this impression is factually inaccurate: The world's poorest are not merely suffering because we are doing little to help; they are being actively harmed by a geopolitical environment that is disproportionately shaped by and for wealthy Western societies. The chief culprits are not just global organizations like the World Trade Organization (WTO) and the International Monetary Fund (IMF). Multinational companies and individual countries are also to blame.

Pogge's defence of these sweeping (and controversial) empirical claims is too complex to summarize in this short article on responsibility. But rather than merely assume arguendo that he is right, let me quickly recount his telling explanation for the curious fact that developing countries rich in natural resources tend to do considerably worse than those with fewer natural resources. This unexpected relation holds because of the role of corrupt dictators, the incentives created by the presence of natural resources, and the role that the international community plays in sustaining this unhealthy incentive structure.

To begin, notice that dictators are typically able to impose their oppressive regimes upon the unwilling masses only because they ruthlessly use their military power to suppress any and all opposition. What is more, staying in power requires a vicious cycle because despots are typically able to retain the military's loyalty only as long as they have the money to pay the soldiers, and rulers can acquire the necessary funds only if they continue to exploit their political power. Some of the revenue comes from taxes that (insofar as the funds are used to benefit the ruler rather than the people themselves) essentially enslave the political subjects. Another large source of income for rulers, especially pertinent to our discussion, is selling the country's natural resources

to foreign companies. If a dictator's country has extensive oil reserves, for instance, then she can sell this oil and use the money to secure her military stranglehold over her subjects.

Here, two points clearly emerge. First and most obviously, the mere fact that a dictator effectively controls access to the country's natural resources does not make her *morally entitled* to those resources any more than a slave-owner's effective control over her slaves implies that she is morally entitled to the fruits of these slaves' labour. Second, and more relevant to the point at hand, foreign companies are an integral part of the problem because, in seeking to acquire natural resources as cheaply as possible, they are giving undemocratic leaders the money necessary to continue their unjust domination over their political subjects. In a very real sense, it is as if these companies were buying cheap cotton from slave-owners who were using this money to buy more guns with which to subdue their slaves. (Of course, as in the times of slavery when the legal institutions protected the rights of slave-owners, a key part of the current problem is that legal systems the world over recognize these companies' ownership rights in the natural resources solely on the basis of their having purchased them from tyrants.)

These observations, in tandem with our earlier discussions, put us in a better position to assign responsibility for world poverty. First and most obviously, if Pogge is correct about the extent to which the problems stem from the actions of suitably organized groups like private companies, political states and international organizations such as the WTO and IMF, then these organizations can and should be held responsible for the damage they do. Pressure should be put on them to reform their practices and to offer restitution for the suffering they have caused. And as we have seen, concluding that these groups are responsible in a non-distributive sense is consistent with also claiming that various persons may also be responsible, as individuals, for their actions. Most obviously, those executives who played the greatest roles in directing these companies, countries and international organizations should be held responsible for the massive pain and suffering they have caused. But this is not all: just as average Germans can be held accountable for the extent to which they tacitly supported the Nazi regime and average Southerners had a responsibility to challenge the racist culture of the postbellum South, each of us who partakes in the international economy – which includes everyone reading this essay, for instance – has a responsibility to strive to make the international institutional order less oppressive to the world's most vulnerable. It is up to each of us, in other words, to hold the international organizations accountable by, among other things, bringing pressure to bear upon those executives who have the greatest control over what policies are put in place.

If the preceding arguments are on target, then it is easy to see why the literature on group responsibility is so important and controversial. It is important and controversial for the same reason: it suggests that our responsibilities are much more extensive, demanding and inescapable than we might have supposed (and hoped). Political theorists commonly assume that every competent adult has a natural duty to promote justice. This assumption is attractive because it seems reasonable to think that each of us should strive to make the world more just or, at the very least, not to make it a less just place. However, once one recognizes (1) the gravity of injustices currently being perpetrated by today's most powerful governments and international organizations and (2) each individual's accountability for her role in these group actions, it becomes

apparent that we cannot adequately discharge our moral duties in an atomistic fashion. Instead, we have an obligation vigilantly to monitor any organization of which we are a part and to work aggressively to ensure that these organizations do not perpetrate injustices. And because everyone reading this paper is a participant in the global economy, each reader has a responsibility to work to reform those organizations which render so many of the world's population imperilled by poverty.

References

Clinton, W.: Presidential Letter of Apology, http://www.pbs.org/childofcamp/history/clinton.html.

Feinberg, J.: 'Collective responsibility', in *Collective Responsibility*, ed. L. May and S. Hoffman (Savage, Md.: Rowman & Littlefield Publishers, 1991), pp. 53–76.

Held, V.: 'Can a random collection of individuals be morally responsible?', in *Collective Responsibility*, ed. L. May and S. Hoffman (Savage, Md.: Rowman & Littlefield Publishers, 1991), pp. 89–100.

Lewis, H. D.: 'Collective responsibility', in *Collective Responsibility*, ed. L. May and S. Hoffman (Savage, Md.: Rowman & Littlefield Publishers, 1991), pp. 17–33.

May, L.: *The Morality of Groups* (Notre Dame, Ind.: University of Notre Dame Press, 1987).

May, L. and Strikwerda, R.: 'Men in groups: collective responsibility for rape', *Hypatia*, 9 (1994), 134–51.

Miller, D.: 'Holding nations responsible', *Ethics*, 114 (2004), 240–68.

Pogge, T.: *World Poverty and Human Rights* (Malden, Mass.: Polity Press, 2002).

Further reading

Copp, D.: 'Collective actions and secondary actions', *American Philosophical Quarterly*, 16 (1979), 177–86.

—: 'What collectives are: agency, individualism and legal theory', *Dialogue*, 23 (1984), 249–69.

Corlett, J. A.: 'Corporate responsibility and punishment', *Public Affairs Quarterly*, 2 (1988), 1–16.

French, P.: *Collective and Corporate Responsibility* (New York: Columbia University Press, 1984).

Gilbert, M.: *On Social Facts* (Princeton, NJ: Princeton University Press, 1992).

—: 'Group wrongs and guilt feelings', *The Journal of Ethics*, 1 (1997), 65–84.

May, L. and Hoffman, S., eds: *Collective Responsibility* (Savage, Md.: Rowman & Littlefield Publishers, 1991).

Chapter 45

Rights

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That individuals have *rights* and that these rights mark important limits on what may be done to them by the state, or in the name of other moral conceptions – this is now a familiar position in modern political philosophy.

Of course, the idea is familiar in non-philosophical contexts too. Many countries embody a list of rights in their constitution, proclaiming, for example, that the government will not interfere with the free speech of its citizens, or with their freedom of travel, their sexual privacy, their religious liberty or their equal access to the law. These Bills of Rights also reflect the importance in the international community of the idea of *human* rights – the conviction that there are liberties and interests so basic that *every* society should secure them irrespective of its traditions, history or level of economic development.

The philosophical discussion of rights is largely an exploration of this idea: what are the implications and the presuppositions of such a 'right-based' approach to political morality? But as well as their usual preoccupation with conceptual analysis – what does it *mean* to say 'P has a right to X' – philosophers are participating also in the political debates about what rights we actually have. For example, are there rights to economic assistance as well as to civil liberty (Shue, 1980)? Should feminist claims, or the claims of ethnic minorities, be phrased in terms of rights? Or should these claims be expressed in a more radical political language, or in language that stresses the things that mark them as different from others in their society (Williams, 1991)? The readiness to address these controversies is part of the wider public affairs movement in philosophy over the past two decades. It stems in large part from a realization that issues of analysis and issues of content are interrelated, and that neither can be isolated from a consideration of the deeper theories of justification – Kantianism, utilitarianism, Aristotelianism and contractarianism – that are the province of moral philosophy.

It will be impossible in a chapter of this length to do justice to all the discussions that have taken place in recent years. In what follows, I shall outline a few of the more prominent issues that have emerged: first, in the analysis of rights; then in disputes about their content; and finally in the deeper discussion of their ethical underpinnings.

Analysis

Although the formula 'P has a right to do X' is sometimes used to indicate merely that P has no duty not to do X, its main use is to assert (1) that others have a duty not to prevent P from doing X, (2) that the point of such a duty is to promote or protect some interest of P's, and (3) that although it is a matter of self-interest, P should feel no embarrassment about insisting upon and enforcing this duty. Together these elements capture the sense in which a right is a legitimate claim that one person can make against others.

Some critics (e.g. Glendon, 1991) have argued that rights, conceived in this way, are too egoistic to provide a satisfactory basis for communal morality. They suggest we should place less emphasis on rights and more on responsibilities. This suggestion is misconceived. The analysis I have just provided indicates that rights are *correlative* to duties, so that talking about rights *is* a way of talking about people's responsibilities. Moreover, most rights are conceived in universal terms: if P has a right against Q, then Q will usually have a similar right against P so that Q's own duties are reciprocated by responsibilities that her right in turn imposes on P.

Others have taken exception to the peremptory and querulous tone in which claims of right are often expressed. Critics like Glendon (1991) and Gilligan (1982, pp. 136–8) associate this tone with the dominance of masculine values, and the unhealthy litigiousness of modern society. But while there are certainly abuses, theorists of rights should not feel compelled to withdraw their claims about the moral importance of self-assertion. In social life, it matters not only that people's interests be respected but that they have sufficient self-respect to stand up for their interests themselves (Hill, 1973). Rights express the idea that respect for a given interest is to be understood from the point of view of the individual whose interest it is. By protecting the interest, we vindicate that point of view, proclaiming that it has as much validity as any other perspective in morality (e.g. the perspective of society or the God's-eye point of view).

It is sometimes said that a humane social policy should focus less on rights and more on needs. I think this too is a misunderstanding, confusing as it does the content of a claim with the normative form in which that claim is couched. (It is like saying we should concentrate less on duties and more on truth telling!) The language of rights as it is nowadays understood is perfectly accommodating to a concern about human need. To invoke a right is to predicate a duty on some concern for a certain individual interest (Raz, 1986, p. 166), and while the interest in question is often an interest in liberty, it might equally be an interest in some material satisfaction. There used to be a controversy in the analysis of rights about whether the concept itself presupposed an exclusive concern with liberty. But the claim that it did (e.g. Hart, 1955) has now largely been abandoned, and the language of rights is used to refer to any demand that an individual interest should be protected or promoted, made from the individual's own point of view, and accorded decisive moral importance.

(It should, perhaps, be noted that many of these attacks on rights, particularly in the American literature of 'Critical Legal Studies', turn out to be objections, not to the philosophical idea of human rights at all, but to the tactic of using constitutional

litigation as a means to social reform. That is an issue of quite limited philosophical interest and I have not tried to address it here.)

There is one controversy of a broadly analytical kind which still remains unresolved. Although rights express the importance of certain interests from the individual's perspective, they posit them also as matters of moral concern. P's right to life, for example, marks not only the importance of P's life to P but the moral importance (and thus, in some sense, the importance to all of us) of P's not being killed. But philosophers disagree about how this wider moral importance is to be understood. Clearly each of us can say to herself, 'I must not kill P'. Clearly also if Q kills P, then it is incumbent on the rest of us to condemn Q and call for her apprehension and punishment. But suppose R has an opportunity to prevent Q from killing P, but that doing so will involve some considerable cost to herself. Does she have a duty to prevent the killing? And, if so, is that duty as important as her *own* duty not to kill P?

Some philosophers, most prominently Nozick (1974, pp. 28–51) think that the last question at least is to be answered in the negative. The duty that P's right imposes on R, they say, is just the duty *not to kill P*; it is not the duty to do whatever is necessary to secure that P not be killed. The duty, in other words, is 'agent-relative'. It prohibits killing, but it focuses that prohibition peculiarly on the agency of each person who considers it. From Q's perspective, the duty is that Q not kill P; from R's perspective, the duty is that *R* not kill P. There is no common 'agent-neutral' duty incumbent on both Q and R, that P not be killed. The right does not command Q and R to pursue the common consequentialist goal of P's not being killed (Williams, 1973, pp. 98–118).

No one doubts that the idea of an agent-relative duty is a coherent one. But justifying it is another matter (Scheffler, 1982, pp. 80–115) and, in my opinion, it is quite clear that it cannot be justified on the basis of rights. To justify an agent-relative duty, we would have to show why each agent should be peculiarly concerned with the quality of her own conduct. Now, as Bernard Williams (1981, pp. 40–53) and Thomas Nagel (1986, pp. 164–85) have argued, it sometimes *is* more important to orient moral justification to an agent's own perspective than to attempt to take an impartial point of view. But one of the features of my earlier analysis of rights was that the point of imposing the duty is our concern for the *right-bearer's* point of view, not the point of view of the agent or duty-bearer who is constrained by the right. Barring special cases like matricide, what matters to P is simply *not being killed*, as opposed to not being killed by any agent in particular. If this interest is really the basis of R's duty, R should be as concerned about the threat posed to P by Q's actions as she would be about any threat posed to P by her own.

The advantage of this approach is that it takes seriously the distinction between right-based duties and other duties (Dworkin, 1978, pp. 169–73; Mackie, 1984; Waldron, 1988, pp. 62–105). By presenting *P's not being killed* as a common goal for Q and R to pursue, it emphasizes that the duties Q and R have are really imposed for P's sake not their own (Sen, 1982). The disadvantage, however, is that it forces us to abandon any sense we might have had that rights express *absolute* moral constraints, any sense that it is their job to prevent the interests of one individual from being traded off against the interests of others. If rights themselves involve the conflict and balancing of competing goals, it seems that there is no getting away from the casuistry and complex moral calculations that were thought to be the hallmark of more blatantly

consequentialist theories (Waldron, 1989, pp. 507–9). In the end I do not think this worry is decisive. The world really *is* a complex place and we should not pride ourselves on confronting it with principles whose simplicity represents moral dilemmas as much easier than they actually are.

Content

In international human rights circles, diplomats talk about 'first-', 'second-' and 'third-generation' rights (see Alston, 1987, p. 307). First-generation rights are the traditional liberties and privileges of citizenship: religious toleration, freedom from arbitrary arrest, free speech, the right to vote, and so on. Second-generation rights are socio-economic claims: the right to education, housing, healthcare, employment and an adequate standard of living. Though these are thought to be more radical claims requiring a more interventionist state, they remain essentially individualistic in their content, inasmuch as it is the material welfare of each man, woman and child that is supposed to be secured by these provisions. Third-generation rights, by contrast, have to do with communities or whole peoples, rather than individual persons. They include minority language rights, national rights to self-determination and the right to such diffuse goods as peace, environmental integrity and economic development.

Though all these ideas express laudable aspirations, the second- and third-generation claims are very controversial. Many theorists maintain, for substantive philosophical if not analytical reasons, that the new claims represent a degradation of the currency of rights, a hijacking of the concept by ideologues who are very little concerned with its liberal provenance.

I shall begin with some comments about third-generation rights. Briefly, the difficulty here is that they are rights to 'non-individualized' goods – goods enjoyed collectively, rather than by individuals on their own account. The health of the environment, for example, is a public good: if it is secured for one person (in a region) it is necessarily secured for all. This makes it difficult to express the case for environmental integrity in the traditional form of rights analysis, where duties are generated on the basis of respect for an individual's interests (Raz, 1984, pp. 186–90). The problem is even more acute for those goods such as the survival of a language, which seem to be the essential property of a community. But perhaps we can treat groups as right-bearers, and say that the rights of a community, particularly a minority community, have more or less the same logic *vis-à-vis* some larger political entity as individual rights have *vis-à-vis* the community. True, there will sometimes be problems about the identity and definition of the groups in question. But there does not seem to be any logical or ethical difficulty with this approach, provided of course that the rights of the group are always asserted against some larger entity rather than against its own individual members (Waldron, 1987a, pp. 314–20).

What about second-generation rights? Do people have rights to social and economic welfare? There are three lines of argument, which lead to the conclusion that they do. The first argues that recognition of second-generation rights is necessary if we are to be serious in our commitment to any rights at all. No one can fully enjoy or exercise *any* right that she is supposed to have if she lacks the essentials for a healthy and active

life. Even if most rights are oriented towards the exercise of agency and freedom, still we know that things like malnutrition and epidemic disease can debilitate and finally destroy all the human faculties that individual autonomy involves (Shue, 1980, pp. 24–5).

Particular versions of this argument can also be developed for specific rights. Many feminists say, for example, that it is not enough for abortion to be a legally secured right, if all that means is that procuring an abortion is not a criminal offence. A poor woman who is unable to take advantage of this liberty because she has no access to clinical services or cannot pay for the procedure is about as badly off as she would be if there were no legal liberty at all (MacKinnon, 1991). In general, if the point of a right is to ensure that a certain choice can be exercised, then actually facilitating the exercise may sometimes be as important as not obstructing it.

The second argument for welfare rights is more direct. Instead of saying that economic security is necessary if *other* rights are to be taken seriously, it states bluntly that socio-economic needs are as important as any other interests, and that a moral theory of individual dignity and well-being is plainly inadequate if it does not take them into account. The advantage of this approach is that it concedes nothing in the way of priority to first-generation rights. Though we may be worried about the proliferation of rights claims, it is by no means clear that demands for welfare should be the ones to give way. Death, disease, malnutrition and exposure are as much matters of concern as any denials of political or civil liberty. Where such predicaments are avoidable, a refusal to address them is an evident insult to human dignity and a failure to take seriously the unconditional worth of each person.

However, arguments along these lines must meet the challenge posed by Robert Nozick: it is all very well to base human rights on material need, but other people may already have property rights over the resources that would have to be used to satisfy these needs. Particular private entitlements might, as he put it, 'fill the space of rights, leaving no room for general rights to be in a certain material condition' (Nozick, 1974, p. 238).

This critique assumes that rights based on need occupy a relatively superficial role in a general theory of economic entitlement – as though we *first* determine who owns what, and *then* determine what to do about the needs that are left unsatisfied. Perhaps needs should play a more fundamental role, governing the initial allocation of property rights themselves. This is the third of the arguments I mentioned. Instead of making socio-economic rights the basis of a duty of compulsory charity incumbent upon existing property-holders, we use them instead to call existing property arrangements into question. We reverse Nozick's order of priorities, and insist that no system of ownership is justified if it leaves large numbers of people destitute and hungry (Waldron, 1986, pp. 475–82). On this account, welfare provision is seen as a first step towards a complete overhaul of a property distribution whose failure to respect fundamental rights is indicated by the fact that many people continue to be without access to the resources they need in order to live.

This third line of argument can also be used to respond to another common criticism of second-generation claims – that they are impracticable or too expensive. Some critics argue that putative welfare rights violate the logical principle *'Ought implies can'*: many states do not have the resources to provide even minimal economic security for masses

of their citizens. Moreover, since states differ considerably in this regard, it hardly makes sense to regard economic provision as matter of universal human entitlement (Cranston, 1967, pp. 50–1). However, the alleged impossibility in many of these cases stems from an assumption that the existing distribution of resources (local and global) is to remain largely undisturbed. When a conservative government in the West says, for example, in response to some plea for welfare provision or overseas aid, 'The money simply isn't there', what is usually meant is that it would be impolitic to try to raise it by taxation. The more radical challenge posed to the underlying distribution of wealth is simply ignored. Once matters are put in this way, it becomes clear that the '*ought*' of human rights is being frustrated less by the '*can't*' of impracticability, than by the '*won't*' of selfishness and greed.

Still, someone might insist, aren't these rights awfully demanding? At least first-generation rights require only that we and our governments refrain from various acts of tyranny and violence. They are 'negative' rights correlative to duties of omission, whereas socio-economic rights are correlated with positive duties of assistance. One advantage of negative rights is that they never conflict with one another, for one can perform an infinite number of omissions at any given time. With positive rights, by contrast, we always have to consider the scarcity of the resources and services that are called for (Cranston, 1967, p. 50).

Unfortunately, this correlation of first- and second-generation claims with duties of omission and duties of positive assistance will not stand up. Many first-generation rights (for example, the right to vote) require a considerable effort to establish and maintain political frameworks, and all such rights make costly calls upon scarce police and forensic resources. As for second-generation rights, they may be correlated with duties that are positive or negative, depending on the context. If people are actually starving, their rights make a call on our active assistance. But if they are living satisfactorily in a traditional subsistence economy, all the right may require is that we refrain from economic initiatives that might disturb that situation (Shue, 1980, pp. 35–64).

In general, where resources are scarce relative to human wants, *any* system of rights or entitlements will seem demanding to those who are constrained by it. If an economic system includes provision for welfare assistance, it may seem overly demanding to taxpayers. But if it does not include such provision, then the system of *property rights* in such an economy will seem overly demanding to the poor, requiring as it does that they refrain from making use of resources (belonging to others) that they need in order to survive. As usual, the question is not whether we are to have a system of demanding rights, but how the costs of these demands are to be distributed.

All the same, thinking about scarcity does have the advantage of forcing rights theorists to take seriously the issue of justice. It is an unhappy feature of rights that they express moral claims in a sort of 'line item' way, presenting each individual's case peremptorily as though it brooked no denial or compromise. If we want to say (as I have argued) that people have rights that may conflict, then rights have got to be linked to a theory of social justice that takes seriously the distributive issues that they raise. But once that link is established, we may find it harder than we thought to insist on a determinate content for either property rights or welfare rights (or, for that matter, civil rights). John Rawls's work on social justice suggests that problems of fair distribution are better approached by articulating general principles for the evaluation of social structures than

by laying down particular rights which allocate to individuals as a matter of entitlement a certain share of social wealth (Rawls, 1971, pp. 64 and 88–90).

Justification

Since the time of Jeremy Bentham, it has been a common complaint against rights that they are nothing but question-begging assertions. Reasoned social reform, Bentham argued, requires detailed attention to empirical circumstances, and that in turn requires 'strength of mind to weigh, and patience to investigate'. The language of natural rights, by contrast, 'is from beginning to end so much flat assertion: it lays down as a fundamental and inviolable principle whatever is in dispute' (Bentham[1794] 1987, p. 74).

This concern continues to resonate two hundred years later. Though rights sound nice, most students of public policy prefer the idiom of utilitarian analysis – calculating the effects of a given reform proposal on the well-being of each individual, and choosing the course of action which will produce the greatest balance of satisfaction over suffering, taking everything into account.

In considering this critique, we must take care that our admiration for the painstaking complexity of policy analysis does not blind us to some of its real moral difficulties. Since utilitarians aggregate all consequences on the same scale, they must figure that any loss to an individual can always be offset by a sufficiently widespread gain to others, even if that gain is just a marginal increment of convenience for each of a large number of people. The maximizing logic of their position requires them to accept with equanimity the neglect or sacrifice of some for the sake of the greater good of others. Often what sounds like 'so much flat assertion', on the part of rights theorists, is simply an adamant insistence that that is not satisfactory as a moral basis for public policy.

Some utilitarians return the favour, responding with a 'flat assertion' of their own that there is nothing wrong with their calculus. But others take a less hard-line approach, suggesting that a sophisticated utilitarianism may itself yield the conclusion that individuals be accorded certain rights. Given our fallibility as calculators, it is possible that human happiness might be better promoted by, for example, an absolute prohibition on torture than by a utilitarian reconsideration of the issue every time a plausible case for torture presents itself. Opinions differ as to whether this sort of 'indirect' utilitarianism can yield genuine rights (compare Hare, 1981, pp. 44–64, 147–68 with Lyons, 1984). But even if it can, the fundamental problem remains: the 'rights' in question are still generated on the assumption that there is nothing intrinsically wrong with sacrificing an important individual interest to a greater sum of lesser interests. That assumption is retained in the foundations of the theory, and it remains a real source of moral concern.

Theorists of rights also have difficulty with the utilitarian assumption that every human preference has a claim to satisfaction. Ronald Dworkin (1978, pp. 232–8; 1984, pp. 155–67) has argued that racist preferences, for example, should not be counted when we are calculating costs and benefits since their content is incompatible with the egalitarian assumption that everyone is entitled to the same concern and respect. Now in practice it is impossible to disentangle such 'external' preferences from people's desires for their own well-being. However, Dworkin suggests that it is the role

of rights to correct for the distortions introduced into utilitarian calculations by the entangled presence of external preferences. This explains why rights are to be conceived, in his famous phrase, as 'trumps' over utility (Dworkin, 1978, p. xi) – that is, why rights have moral priority over any cost/benefit calculation in which racist or other inegalitarian preferences may be present.

The details of Dworkin's position remain controversial (see Hart, 1979, pp. 86–97). But the general assumption on which it is predicated – that the idea of rights involves a commitment to equality and that it is profoundly antithetical to racist and sexist conceptions of human value – is now beyond dispute. Much of the recent *foundational* work in rights theory has involved an attempt to elaborate the nature of this underlying egalitarianism.

One account involves a distinction between 'merit' and 'worth' (Vlastos, 1984, pp. 49–60). Though people differ in their virtues and abilities, the idea of rights attaches an unconditional *worth* to the existence of each person, irrespective of her particular value to others. Traditionally, this was given a theological interpretation: since God has invested His creative love in each of us, it behoves us to treat all others in a way that reflects that status (Locke [1689] 1988, pp. 270–1). In a more secular framework, the assumption of unconditional worth is based on the importance of each life to the person whose life it is, irrespective of her wealth, power or social status. People try to make lives for themselves, each on their own terms. A theory of rights maintains that that enterprise is to be respected, equally, in each person, and that all forms of power, organization, authority and exclusion are to be evaluated on the basis of how they serve these individual undertakings.

This explains the antipathy in modern political theory between defenders of rights and those who are called 'communitarians' (Sandel, 1984). For the latter, the cardinal point about human society is that people make lives on terms provided by their culture or the community around them. That each lives a life on her own terms is, on that approach, a myth – and a pernicious myth if it encourages people to neglect or undermine the communal structures that in fact make human life bearable (Taylor, 1985, pp. 187–210). However, it is important not to confuse moral and sociological issues here. From a scientific point of view, perhaps it is possible to give a complete explanation of the life each person is leading in terms of social and cultural frameworks. But the idea of rights is a claim about value: whatever its provenance, the life of a given person is *hers, and it feels important to her*, from the inside as it were. The idea of rights involves a determination to reflect that feeling of importance in the respect we offer to one another as a fundamental basis of our life together.

Earlier I raised the issue of the relation between rights and liberty. I indicated that modern political thought leaves open the possibility that there may be rights to things other than freedom. We see now that individual freedom is nevertheless implicated with rights at a much deeper level. What I have taken as the underlying idea of rights – an individual leading a life on her own terms – is not simply the idea of an individual's *being alive.* It is of a life's *being led*, and that connotes agency, choice and a sense of individual responsibility. In a number of recent works, Alan Gewirth (1978; 1982, pp. 41–178) has argued that the idea of agency holds the key to rights: each of us values agency in her own case, and so each is committed, by what Gewirth calls 'the Principle of Generic Consistency', to value agency and facilitate its exercise in everyone's life. It

is perhaps unfortunate that Gewirth has entangled these considerations with the messier enterprise of trying to construct a *logical proof* of the moral claims he is making: he wants to show that the person who does not value everyone's agency is reasoning irrationally. It seems wiser to leave that to the specialist enterprise of meta-ethics. But the importance of agency in modern discussions of rights is indisputable: it is because each of us wants a life governed in large part by her own thinking, feeling and decision making that the idea of individual rights seems so attractive.

Certainly this is the sense that modern theories give to the old Kantian precept that we are to treat humanity in each person as an end in itself, never merely as a means to others' ends (Kant, [1785] 1969, pp. 52–4). Morally the most important fact about our humanity is the ability each of us has to exercise agency in accordance with practical reason. We know that this capacity can be exploited in some people for the benefit of others: slavery and the domestic subordination of women remain the most striking examples of people living lives on others' terms, not their own. In the final analysis, the idea of rights commits its proponent to oppose all such subordination, and in general to do what she can (individually and collectively through the state) to secure the benefits of each person's own rational agency, fully developed, for the life that that person has chosen to lead.

References

Alston, P.: 'A third generation of solidarity rights: progressive development or obfuscation of international human rights law?', *Netherlands International Law Review*, 29 (1987), 307–65.

Arendt, H.: *The Origins of Totalitarianism* (New York: Harcourt, Brace and Company, 1951).

Bentham, J.: *Anarchical Fallacies; being an examination of the Declarations of Rights issued during the French Revolution* (1796), excerpted in Waldron (1987a, pp. 46–76).

Cranston, M.: 'Human rights, real and supposed', in *Political Theory and the Rights of Man*, ed. D. D. Raphael (London: Macmillan, 1967).

Dworkin, R.: *Taking Rights Seriously* (London: Duckworth, 1978).

—: 'Rights as trumps', in Waldron (1984), pp. 153–67.

Gewirth, A.: *Reason and Morality* (Chicago, Ill.: University of Chicago Press, 1978).

—: *Human Rights: Essays on Justification and Applications* (Chicago, Ill.: University of Chicago Press, 1982).

Gilligan, C.: *In a Different Voice: Psychological Theory and Women's Development* (Cambridge, Mass.: Harvard University Press, 1982).

Glendon, M. A.: *Rights Talk* (New York: Free Press, 1991).

Hare, R. M.: *Moral Thinking* (Oxford: Clarendon Press, 1981).

Hart, H. L. A.: 'Are there any natural rights?', *Philosophical Review*, 64 (1955), 175–91.

—: 'Between utility and rights', in Ryan (1979), pp. 77–98.

Hill, T. E.: 'Servility and self-respect', *The Monist*, 57 (1973), 137–52.

Lyons, D.: 'Utility and rights', in Waldron (1984), pp. 110–36.

Mackie, J. L.: 'Can there be a right-based moral theory?', in Waldron (1984), pp. 168–81.

MacKinnon, C. A.: *Toward a Feminist Theory of the State* (Cambridge, Mass.: Harvard University Press, 1991).

Nagel, T.: *The View from Nowhere* (Oxford: Oxford University Press, 1986).

Nozick, R.: *Anarchy, State and Utopia* (Oxford: Blackwell, 1974).

Rawls, J.: *A Theory of Justice* (Cambridge, Mass.: Harvard University Press, 1971).

Raz, J.: ‘Right-based moralities’, in Waldron (1984), pp. 182–200.
—: *The Morality of Freedom* (Oxford: Clarendon Press, 1986).
Ryan, A., ed.: *The Idea of Freedom: Essays in Honour of Isaiah Berlin* (Oxford: Oxford University Press, 1979).
Sandel, M., ed.: *Liberalism and Its Critics* (Oxford: Blackwell, 1984).
Scheffler, S.: *The Rejection of Consequentialism* (Oxford: Clarendon Press, 1982).
Sen, A.: ‘Rights and agency’, *Philosophy and Public Affairs*, 11 (1982), 3–39.
Shue, H.: *Basic Rights: Subsistence, Affluence, and US Foreign Policy* (Princeton, NJ: Princeton University Press, 1980).
Taylor, C.: ‘Atomism’, in C. Taylor, *Philosophy and the Human Sciences: Philosophical Papers 2* (Cambridge: Cambridge University Press, 1985), pp. 87–210.
Vlastos, G.: ‘Justice and equality’, in Waldron (1984), pp. 41–76.
Waldron, J., ed.: *Theories of Rights* (Oxford: Oxford University Press, 1984).
—: ‘Welfare and the images of charity’, *Philosophical Quarterly*, 36 (1986), 463–82.
—: *Nonsense upon Stilts: Bentham, Burke and Marx on the Rights of Man* (London: Methuen, 1987a).
—: ‘Can communal goods be human rights?’, *Archives européennes de sociologie*, 27 (1987b), 296–321.
—: *The Right to Private Property* (Oxford: Clarendon Press, 1988).
—: ‘Rights in conflict’, *Ethics*, 99 (1989), 503–19.
Williams, B.: ‘A critique of utilitarianism’, in J. J. C. Smart and B. Williams, *Utilitarianism, For and Against* (Cambridge: Cambridge University Press, 1973), pp. 75–150.
—: ‘Utilitarianism and moral self-indulgence’, in B. Williams, *Moral Luck: Philosophical Papers 1973–1980* (Cambridge: Cambridge University Press, 1981), pp. 40–53.
Williams, P.: *The Alchemy of Race and Rights* (Cambridge, Mass.: Harvard University Press, 1991).

Further reading

Donnelly, J.: *The Concept of Human Rights* (London: Croom Helm, 1985).
Finnis, J.: *Natural Law and Natural Rights* (Oxford: Clarendon Press, 1980).
Held, V.: *Rights and Goods: Justifying Social Action* (Chicago, Ill.: University of Chicago Press, 1984).
Lyons, D., ed.: *Rights* (Belmont, Calif.: University of California Press, 1979).
MacCormick, N.: *Legal Right and Social Democracy: Essays in Legal and Political Philosophy* (Oxford: Clarendon Press, 1982).
Nickel, J. W.: *Making Sense of Human Rights: Philosophical Reflections on the Universal Declaration of Human Rights* (Berkeley, Calif.: University of California Press, 1987).
Scheffler, S., ed.: *Consequentialism and Its Critics* (Oxford: Oxford University Press, 1988).
Shapiro, I.: *The Evolution of Rights in Liberal Theory* (Cambridge: Cambridge University Press, 1986).
Thomson, J. J.: *The Realm of Rights* (Cambridge, Mass.: Harvard University Press, 1990).
Tuck, R.: *Natural Rights Theories: Their Origin and Development* (Cambridge: Cambridge University Press, 1979).
Wellman, C.: *A Theory of Rights: Persons under Laws, Institutions, and Morals* (Totowa, NJ: Rowman & Allenheld, 1985).

Chapter 46

Secession and Nationalism

ALLEN BUCHANAN

Secession, Autonomy and the Modern State

The past decade and a half has witnessed a rash of secessionist movements. Some have succeeded, some have failed; some have involved large-scale conflict and ethnic cleansing, some have been remarkably peaceful. These momentous events call into question not only the legitimacy of particular states and their boundaries, but also the nature of sovereignty, the purposes of political association and the scope of majority rule.

Less publicized and less dramatic movements for greater self-determination of groups within the framework of existing states are also becoming pervasive. The indigenous peoples' rights movement, pursued with vigour in the United Nations and other arenas of international law, embraces Indians in North, Central and South America, Southeast Asian Hill Tribes, the Saami (Lapps) in a number of countries touched by the Arctic Circle, and Native Hawaiians, among others. Self-determination movements among Flemings in Belgium and Scots in the United Kingdom appear to be building as well. In most of these cases the groups in question do not seek full sovereignty, but rather greater autonomy through the achievement of limited rights of self-government as distinct subunits within the state.

The proper analysis of the concept of sovereignty is, of course, a matter of dispute. However, the root idea is that of a supreme authority – one whose powers are unrestricted by those of other entities. It is useful to distinguish between *internal* and *external* sovereignty (McCallum, 1987, pp. 36–45). Internal sovereignty is the state's supremacy with respect to all affairs within its borders. External sovereignty is the state's supremacy with respect to its relations with other political units beyond its borders; in particular, its right to the integrity of its territory, and to control crossings of its borders, as well as the right to enter as an independent party into economic agreements or military alliances or treaties with other states.

No state enjoys literally unrestricted external sovereignty. International law imposes a number of restrictions on every state's dealings with other states, the most fundamental of which is that each is to recognize the others' territorial integrity. In addition, virtually all modern states acknowledge (in principle if not in practice) that their internal sovereignty is limited by *individual rights*, in particular the human rights recognized in international law.

Autonomy movements seek to impose further limitations on internal sovereignty through the recognition of various *group rights*. These include not only so-called minority cultural rights, such as the right to speak one's own language or to wear cultural dress, but also collective property rights for the group, rights of internal self-government, and in some cases rights to participate in joint decision making concerning the development and exploitation of resources in the area occupied by the group (Quebec, 1991).

Autonomy movements may appear to be less radical than outright bids for secession. After all, what they demand is not the dismemberment of the state into two or more new states, but only a reallocation of certain powers within the state. This appearance, however, is misleading. If a state recognizes substantial powers of self-determination for groups within its borders, it thereby acknowledges limits on its own sovereignty. And if the modern state is defined as a political authority which (credibly) claims full sovereignty over the entire area within its borders, then a state that recognizes rights of self-determination for minorities within its borders thereby transforms itself into something less than a fully sovereign state. (For example, American Indian law, in conferring significant powers of self-government upon Indian tribes, uses the term 'Indian Nations', and is increasingly regarded as approaching the status of *inter*national law; Williams, 1990, pp. 74–103.)

Thus, secession movements only threaten the myth of the permanence of the state; autonomy movements assault the concept of state sovereignty itself. Successful and frequent secession would certainly shatter the international order; but it would not challenge the basic conceptual framework that has governed international law for over three hundred years, since the rise of the modern state. What is fundamental to that framework is the assumption that international law concerns relations among sovereign states. If successful, autonomy movements within existing states may make the case of sovereign states the exception rather than the rule (Hannum, 1990, pp. 14–26, 453–77).

Even though secession is in this sense a phenomenon which the traditional framework of international law and relations can in principle accommodate, it is the most extreme and radical response to the problems of group conflict within the state. For this reason, a consideration of the case for and against secession puts the moral issues of group conflict in bold relief. In what follows, we will explore the morality of secession, while bearing in mind that it is only the most extreme point on a continuum of phenomena involving the struggles of groups within existing political units to gain greater autonomy.

Nationalism and the Justification of Secession

Some see the recent spate of secessionist movements as the expression of an unpredicted and profoundly disturbing resurgence of *nationalism*. And indeed one of the most familiar and stirring justifications offered for secession appeals to *the right of self-determination for 'peoples'*, interpreted such that it is equivalent to what is sometimes called the *normative nationalist principle*. It is also one of the least plausible justifications.

The normative nationalist principle states that every 'people' is entitled to its own state; that is, that political and cultural (or ethnic) boundaries must coincide (Gellner,

1983, pp. 1–3). In other words, according to the normative nationalist principle, the right of self-determination is to be understood in a very strong way, as requiring complete political independence – that is, full sovereignty.

An immediate difficulty, of course, is the meaning of 'peoples'. Presumably a 'people' is a distinct ethnic group, the identifying marks of which are a common language, shared traditions and a common culture. Each of these criteria has its own difficulties. The question of what count as different dialects of the same language, as opposed to two or more distinct languages, raises complex theoretical and meta-theoretical issues in linguistics. The histories of many groups exhibit frequent discontinuities, infusion of new cultural elements from outside, and alternating degrees of assimilation to and separation from other groups.

More disturbingly, if 'people' is interpreted broadly enough, then the normative nationalist principle denies the legitimacy of any state containing more than one cultural group (unless all 'peoples' within it freely waive their rights to their own states). Yet cultural pluralism is often taken to be a distinguishing feature of the modern state, or at least of the modern liberal state. Moreover, if the number of ethnic or cultural groups or peoples is not fixed but may increase, then the normative nationalist principle is a recipe for limitless political fragmentation.

Nor is this all. Even aside from the instability and economic costs of the repeated fragmentation which it endorses, there is a more serious objection to the normative nationalist principle, forcefully formulated by Ernest Gellner.

> To put it in the simplest terms: there is a very large number of potential nations on earth. Our planet also contains room for a certain number of independent or autonomous political units. On any reasonable calculation, the former number (of potential nations) is probably much, *much* larger than that of possible viable states. If this argument or calculation is correct, not all nationalisms can be satisfied, at any rate not at the same time. The satisfaction of some spells the frustration of others. This argument is furthered and immeasurably strengthened by the fact that very many of the potential nations of this world live, or until recently have lived, not in compact territorial units but intermixed with each other in complex patterns. It follows that a territorial political unit can only become ethnically homogenous, in such cases if it either kills, or expels, or assimilates all non-nationals. (Gellner, 1983, p. 2)

With arch understatement, Gellner concludes that the unwillingness of people to suffer such fates 'may make the implementation of the nationalist principle difficult'. Thus to say that the normative nationalist principle must be rejected because it is too *impractical* or *economically costly* would be grossly misleading. It ought to be abandoned because the *moral costs* of even attempting to implement it would be prohibitive.

It is important to see that this criticism of the principle of self-determination is decisive *only* against the strong version of that principle that makes it equivalent to the normative nationalist principle, which states that each people (or ethnic group) is to have its own fully sovereign state. For the objection focuses on the unacceptable implications of granting a right of self-determination to all 'peoples' *on the assumption that self-determination means complete political independence, that is, full sovereignty.*

However, as we have already suggested, the notion of self-determination is vague or, rather, multiply ambiguous, inasmuch as there are numerous forms and a range of

degrees of political independence or autonomy that a group might attain. Instead of asserting an ambiguous *right* to self-determination, it might be better to acknowledge that many if not most groups have a *legitimate interest* in self-determination and that this interest can best be served in different circumstances by a range of more specific rights or combinations of rights, including a number of distinct group rights to varying forms and degrees of political autonomy, with the right to secede being only the most extreme of these.

I have argued elsewhere that there is a moral right to secede, though it is a highly qualified, limited right. It is not a right which all 'peoples' or ethnic or cultural groups have simply by virtue of their being distinct groups. Instead, only those groups whose predicament satisfies the conditions laid out in any of several sound justifications for secession have this right. In this sense the right to secede, as I conceive it, is not a general right of groups, but rather a special or selective right that obtains only under certain conditions (Buchanan, 1991, pp. 151–62).

Types of Theories of the Unilateral Right to Secede

The greatest controversy and the greatest risk of violence arise in the case of unilateral or non-consensual secession – that is, cases where a group tries to secede without the consent of the state from which it is seceding. The current literature exhibits three main types of theories of the unilateral or non-consensual right to secede: (1) Remedial Right Only Theories, according to which the unilateral right to secede is a remedial right, a right a group comes to have as the result of the state committing violations of its rights or the individual rights of its members; (2) Primary Right Theories, which hold that groups can have the right to secede even in the absence of rights violations, either simply because they are nations, on the assumption that nations have a right of self-determination that includes secession (Nationalist Theories) or simply because they are a majority in the region in question favouring secession (Plebiscitary Theories). I have argued elsewhere in detail that Remedial Right Only Theories are more plausible, all things considered. Nationalist Primary Right Theories suffer from the difficulties noted above. Plebiscitary Theories wrongly assume that the same values that make democracy the appropriate form of government for an existing state also imply that any group that happens to be a majority within a particular part of state has the right to redraw the boundaries of the state. Without pretending to have done justice here to Nationalist and Plebiscitary Theories, I will now briefly sketch some of the kinds of arguments that make the Remedial Right Only approach attractive (Buchanan, 2004; see further Couture et al., 1996; Moore, 1998; Macedo and Buchanan, 2003).

Rectifying past unjust takings

This first justification is the simplest and most intuitively appealing argument for secession. It has obvious application to many actual secessionist movements, including some of those that completed the dissolution of the Soviet Union. The claim is that a region has a right to secede if it was unjustly incorporated into the larger unit from which its members seek to separate.

The argument's power stems from the assumption that secession is simply the reappropriation, by the legitimate owner, of stolen property. The right to secede, under these circumstances, is just the right to reclaim what is one's own. This simple interpretation is most plausible, of course, in situations in which the people attempting to secede are literally the same people who held legitimate title to the territory at the time of the unjust annexation, or at least are the indisputable descendants of those people (their legitimate political heirs, so to speak). But matters are considerably more complex if the seceding group is not closely or clearly related to the group whose territory was unjustly taken, or if the group that was wrongly dispossessed did not itself have clear, unambiguous title to it. But at least in the paradigm case, the argument from rectificatory justice is a convincing argument for a moral right to secede. The right of the Baltic Republics to secede from the Soviet Union, which forcibly and unjustly annexed them in 1940, is well supported by this first justification.

It is one thing to say that a group has the right to secede because in so doing they will simply be reclaiming what was unjustly taken from them. The *terms* of secession are another question. In some cases secession will adversely affect individuals who had no part in the unjust acquisition of the territory. Whether, or under what conditions, they are owed compensation or other special consideration is a complex matter (Buchanan, 1991, pp. 87–91).

The self-defence argument

The common law, common-sense morality, and the great majority of ethical systems, religious and secular, acknowledge a right of self-defence against an aggressor who threatens lethal force. For good reason this is not thought to be an unlimited right. Among the more obvious restrictions on it are (1) that only that degree of force necessary to avert the threat be used, and (2) that the attack against which one defends oneself not be provoked by one's own actions. If such restrictions are acknowledged, the assertion that there is a right of self-defence is highly plausible. Each of these restrictions is pertinent to the right of groups to defend themselves. There are two quite different types of situations in which a group might invoke the right of self-defence to justify secession.

In the first, a group wishes to secede from a state in order to protect its members from extermination by that state itself. Under such conditions the group may either attempt to overthrow the government, that is, to engage in revolution; or, if strategy requires it, the group may secede in order to organize a defensible territory, forcibly appropriating the needed territory from the aggressor, creating the political and military machinery required for its survival, and seeking recognition and aid from other sovereign states and international bodies. Whatever moral title to the seceding territory the aggressor state previously held is *invalidated* by the gross injustice of its genocidal efforts. Or, at the very least, we can say that whatever legitimate claims to the seceding territory the state had are *outweighed* by the claims of its innocent victims. We may think of the aggressor's right to the territory, in the former case, as dissolving in the acid of his own iniquities, and, in the latter, as being pushed down in the scales of the balance by the greater weight of the victim's right of self-defence. Whether we say that the evil state's right to territory is invalidated (and disappears entirely) or merely is

outweighed, it is clear enough that in these circumstances its claim to the territory should not be an insurmountable bar to the victim group's seceding, if this is the only way to avoid its wrongful destruction. Unfortunately, this type of case is far from fanciful. One of the strongest arguments for recognizing an independent Kurdish state, for example, is that only this status, with the control over territory it includes, will ensure the survival of this group in the face of genocidal threats from Turkey, Iran and Iraq.

There is a second situation in which secessionists might invoke the right of self-defence, but in a more controversial manner. They could argue that in order to defend itself against a lethal aggressor a group may secede from a state that is not itself that aggressor. This amounts to the claim that the need to defend itself against genocide can *generate* a claim to territory of sufficient moral weight to override the claims of those who until now held valid title to it and who, unlike the aggressor in the first version of the argument, have not forfeited their claim to it by lethal aggression.

Suppose the year is 1939. Germany has inaugurated a policy of genocide against the Jews. Jewish pleas to the democracies for protection have fallen on deaf ears (in part because the Jews are not regarded as a *nation* – nationhood carrying a strong presumption of territory, which they do not possess). Leaders of Jewish populations in Germany, Eastern Europe and the Soviet Union agree that the only hope for the survival of their people is to create a Jewish state, a sovereign territory to serve as a last refuge for European Jewry. Suppose further that the logical choice for its location – the only choice with the prospect of any success in saving large numbers of Jews – is a portion of Poland. Polish Jews, who are not being protected from the Nazis by the government of Poland, therefore occupy a portion of Poland and invite other Jews to join them there in a Jewish sanctuary state. They do not expel non-Jewish Poles who already reside in that area but, instead, treat them as equal citizens. (From 1941 until 1945 something like this actually occurred on a smaller scale. Jewish partisans, who proved to be heroic and ferocious fighters, occupied and defended an area in the forests of Poland, in effect creating their own mini-state, for the purposes of defending themselves and others from annihilation by the Germans.)

The force of this second application of the self-defence argument derives in part from the assumption that the Polish Jews who create the sanctuary state *are not being protected by their own state, Poland*. The idea is that *a state's authority over territory is based at least in part in its providing protection to all its citizens* – and that its retaining that authority is conditional on its continuing to do so. In the circumstances described, the Polish state is not providing protection to its Jewish citizens, and this fact voids the state's title to the territory in question. The Jews may rightly claim the territory, if doing so is necessary for their protection against extermination.

Escaping discriminatory redistribution

The idea here is that a group may secede if this is the only way for them to escape discriminatory redistribution. Discriminatory redistribution, also called regional exploitation and internal colonization, occurs whenever the state implements economic policies that systematically work to the disadvantage of some groups, while benefiting others, in morally arbitrary ways. A clear example of discriminatory redistribution would be the state imposing higher taxes on one group while spending less on it, or placing

economic restrictions on one region, without any sound moral justification for this unequal treatment.

Charges of discriminatory redistribution abound in actual secessionist movements. Indeed, it would be hard to find cases in which this charge does not play a central role in justifications for secession, even though other reasons are often given as well. Here are only a few illustrations.

1 American Southerners complained that the federal tariff laws were discriminatory in intent and effect – that they served to foster the growth of infant industries in the North by protecting them from European and especially British competition, at the expense of the South's import-dependent economy. The Southern statesman John C. Calhoun and others argued that the amount of money the South was contributing to the federal government, once the effects of the tariff were taken into account, far exceeded what that region was receiving from it.
2 Basque secessionists have noted that the percentage of total tax revenues in Spain paid by those in their region is more than three times the percentage of state expenditures there. (A popular Basque protest song expresses this point vividly, saying that 'the cow of the state has its mouth in the Basque country but its udder elsewhere'.) (Horowitz, 1985, pp. 249–54).
3 Biafra, which unsuccessfully attempted to become independent from Nigeria in 1967, while containing only 22 per cent of the Nigerian population, contributed 38 per cent of total revenues, and received back from the government only 14 per cent of those revenues (Nwanko and Ifejika,1970, p. 229).
4 Secessionists in the Baltic Republics and in Soviet Central Asia protested that the government in Moscow for many years implemented economic policies which benefited the rest of the country at the expense of staggering environmental damage in their regions. To support this allegation of discriminatory redistribution, they cited reports of abnormally high rates of birth defects in Estonia, Latvia and Lithuania, apparently due to chemical pollutants from the heavy industry which Soviet economic policy concentrated there, and contamination of ground water in Central Asia due to massive use of pesticides and herbicides at the order of planners in Moscow whose goal it was to make that area a major cotton producer.

An implicit premiss of the argument from discriminatory redistribution is that *failure to satisfy this fundamental condition of non-discrimination voids the state's claim to the territory in which the victims reside*, whereas the fact that they have no other recourse to avoid this fundamental injustice *gives them a valid title to it*. This premiss forges the needed connection between the grounds for seceding (discriminatory redistribution) and the territorial claim that every sound justification for secession must include (since secession involves the taking of territory). One good reason for accepting this premise is that it explains our intuitions about the justifiability of secession in certain central and relatively uncontroversial cases.

In other words, unless this premiss is acceptable, the argument from discriminatory redistribution is not sound; and unless the argument from discriminatory redistribution is sound, it is hard to see how secession is justifiable in certain cases in which there is widespread agreement that it is justified. Consider, for example, the secession of the

thirteen American Colonies from the British Empire. (Strictly speaking this was secession, not revolution. The aim of the American Colonists was not to overthrow the British government, but only to remove a part of the North American territory from the Empire.) The chief justification for American independence was discriminatory redistribution: Britain's mercantilist policies systematically worked to the disadvantage of the Colonies for the benefit of the mother country. Lacking representation in the British Parliament, the colonists reasonably concluded that this injustice would persist. It seems, then, that if the American 'Revolution' was justified, then there are cases in which the state's persistence in the injustice of discriminatory redistribution, together with the lack of alternatives to secession for remedying it, *generates* a valid claim to territory on the part of the secessionists.

The force of the argument from discriminatory redistribution does not rest solely, however, on brute moral intuitions about particular cases such as that of American independence. We can *explain* our responses to such cases by a simple but powerful principle: the legitimacy of the state – including its rightful jurisdiction over territory – depends upon its providing a framework for co-operation that does not systematically discriminate against any group.

The self-defence argument and the argument from discriminatory redistribution share an underlying assumption, namely, that the justification for a state's control over territory is at least in part *functional*. Generally speaking, what entitles a state to exercise exclusive jurisdiction ('territorial sovereignty') over a territory is the state's provision of a regime that enforces basic rights in a non-discriminatory way. If the state fails to fulfil these legitimating jurisdictional functions with respect to a group, and if there is no other way for the group to protect itself from the ensuing injustices, then it can rightfully claim the jurisdictional authority for itself.

Attempts to justify secession on grounds of discriminatory redistribution are more complicated than might first appear. The mere fact that there is a net flow of revenue out of one region does not show that discriminatory redistribution is occurring. Instead, the state may simply be implementing policies designed to satisfy the demands of *distributive justice*. (Theories of distributive justice attempt to formulate and defend principles that specify the proper distribution of the burdens and benefits of social co-operation.) The problem is that distributive justice is a highly controversial matter and that different theories will yield different and in some cases directly opposing assessments of distributive patterns across regions of a country. A policy that redistributes wealth from one region to others may be a case of discriminatory redistribution according to one theory of distributive justice, but a case of just redistribution according to another. Even if there is fairly widespread agreement that the better off owe *something* to the worse off, there can be and is disagreement as to *how much* is owed. To this extent, the theory of secession is derivative upon the theory of distributive justice and subject to its uncertainties.

Justifications for Forcible Resistance to Secession

An adequate moral theory of secession must consider not only arguments to justify secession but justifications for resisting it as well. Here I will concentrate on only two of the more influential and plausible of the latter (Buchanan, 1991, pp. 87–125).

Avoiding anarchy

From Lincoln to Gorbachev, leaders of states have opposed secession, warning that recognition of a right to secede would result in chaos. The *reductio ad absurdam* of the right to secede is the prospect of the most extreme anarchy: not every man's home his castle; rather, every man's yard his country. Even if political fragmentation stops short of this, recognition of a right to secede is likely to produce more fragmentation than is tolerable.

This argument would be much more plausible if recognizing a right to secede meant recognizing an *unlimited* right to secede. But as we have argued, the right to secede is a special or selective right that exists only when one or more of a limited set of justifying conditions is satisfied; it is not a general right of all peoples. Nor, as we have also seen, can it reasonably be understood to be included in or derivable from an alleged right of all peoples to self-determination. At most, the threat of anarchy could create a rebuttable presumption against secession, so that secessionists would, generally speaking, have to make a case for seceding.

The theory of the right to secede sketched above can be seen as including such a presumption: a sound justification for secession is to include a justification for the secessionists' claim to the territory. In a sense, this requirement constitutes a presumption in favour of the status quo, and to that extent addresses the worry about anarchy. And since, as I have also noted, secession involves not only the severing of bonds of political obligation but also the taking of territory, this requirement seems reasonable.

Some might argue that by requiring secessionists to offer grounds for their claim to the territory, the theory proposed here stacks the deck against them (Kymlicka, 1992). Especially from the standpoint of liberal political philosophy, which prizes liberty and self-determination, why should there not be a presumption that secession is justified – or, at the very least, why should not secessionists and anti-secessionists start out on level ground in the process of justification?

There are, I believe, two sound reasons for a presumption that secessionists must make a case for taking the territory. First, a moral theory of secession should be viewed as a branch of *institutional ethics*. One relevant consideration for evaluating proposed principles for institutional ethics is the consequences of their general acceptance. So long as it is recognized that the presumption against secession can be rebutted by any of the arguments stated above in favour of a right to secede, such a presumption seems superior to the alternatives. Given the gravity of secession – and the predictable and unpredictable disruptions and violence which it may produce – legitimate interests in the stability of the international order speak in favour of the presumption.

Another consideration in favour of assigning the burden of argument where I have is that such a presumption – which gives some weight to the status quo – is much more likely to contribute to general acceptance of a right to secede in the international community. Other things being equal, a moral theory which is more likely to gain acceptance is to be preferred, especially if it is a theory of how institutions – in this case, the institutions of international law and diplomacy – ought to operate. It is often remarked that the one principle of international law that has gained almost universal acceptance is a strong presumption against violations of the territorial integrity of existing states. Requiring that secessionists be able to justify secession, and in such

a way as to establish their claim to the territory in question, serves to give appropriate weight to this fundamental principle, while at the same time recognizing that the state's claim to control over its territory is not absolute and can be overridden under certain conditions.

Avoiding strategic bargaining that undermines majority rule

It could be argued that if the right to secede is recognized, then a minority may use the threat of secession to undermine majority rule. In conditions in which the majority views secession as a prohibitive cost, a group's threat to secede can function as a veto over the majority's decisions. Consideration of this risk might lead one to conclude that the only adequate way to protect democracy is to refuse to acknowledge a right to secede.

However, as we have seen, there can be compelling justifications for secession under certain conditions. Accordingly, a more appropriate response than denying the right to secede is to devise constitutional mechanisms or processes of international law that give some weight both to legitimate interests in secession and to the equally legitimate interest in preserving the integrity of majority rule (and in political stability). The most obvious way to do this would be to allow secession under certain circumstances, but to minimize the risk of strategic bargaining with the threat of secession by erecting convenient but surmountable procedural hurdles to secession. For example, a constitution might recognize a right to secede, but require a strong majority – say three-quarters – of those in the potentially seceding area to endorse secession in a referendum. This type of hurdle is the analogue of an obstacle to constitutional amendment which the US Constitution's Amendment Clause itself establishes: any proposed amendment must receive a two-thirds vote in Congress and be ratified by three-quarters of the states.

The purpose of allowing amendment while erecting these two strong (that is, non-simple) majority requirements is to strike an appropriate balance between two legitimate interests: the interest in providing flexibility for needed change and the interest in securing stability. Similarly, the point of erecting inconvenient but surmountable barriers to secession (either in a constitution or in international law) would be not to make secession impossible but to avoid making it too easy. A second approach would be to levy special exit costs, a secession tax (Buchanan, 1991). Once these possibilities are recognized, the objection that acknowledgement of a right to secede necessarily undermines democracy is seen to be less than compelling.

Secession and the Problem of Group Conflict in the Modern State

Secession is only the most extreme – and in some cases the least desirable – response to problems of group conflict. A comprehensive moral theory of international relations would include an account of the scope and limits of the right to secede; but it would also formulate and support principles to guide the establishment of a wider range of rights of self-determination. Such a theory, if it gained wide acceptance, would

undoubtedly produce fundamental changes in our conceptions of the state, of sovereignty, and of the basic categories of international law.

References

Buchanan, A.: *Secession: The Morality of Political Divorce: From Fort Sumter to Lithuania and Quebec* (Boulder, Col.: Westview Press, 1991).

—: *Justice, Legitimacy and Self-determination* (Oxford: Oxford University Press, 2004).

Couture, J., Nielsen, K. and Seymour, M., eds: *Rethinking Nationalism* (Calgary: University of Calgary Press, *The Canadian Journal of Philosophy*, Supplementary volume, 22, 1996).

Gellner, E.: *Nations and Nationalism* (Oxford: Blackwell, 1983).

Hannum, H.: *Autonomy, Sovereignty, and Self-Determination* (Philadelphia, Pa.: University of Pennsylvania Press, 1990).

Horowitz, D.: *Ethnic Groups in Conflict* (Berkeley, Calif.: University of California Press, 1985).

Kymlicka, W.: 'Review of *Secession: The Morality of Political Divorce: From Fort Sumter to Lithuania and Quebec*', *Political Theory*, 20 (1992), 527–32.

Macedo, S. and Buchanan, A., eds: *Nomos XLV : Secession and Self-Determination* (New York: New York University Press, 2003).

McCallum, G. C.: *Political Philosophy* (Englewood Cliffs, NJ: Prentice-Hall, 1987).

Moore, M., ed.: *National Self-Determination and Secession* (New York: Oxford University Press, 1998).

Nwanko, A. and Ifejika, S.: *The Making of a Nation: Biafra* (London: C. Hurst, 1970).

Quebec, Province of: *James Bay and Northern Quebec Agreement and Complementary Agreements* (Quebec: Les Publications du Quebec, 1991).

Williams, R. A., Jr.: *The American Indian in Western Legal Thought: The Discourses of Conquest* (New York: Oxford University Press, 1990).

Further reading

Barry, B.: 'Self-government revisited', in *The Nature of Political Theory*, ed. D. Miller and L. Siedentop (Oxford: Clarendon Press, 1983), pp. 121–55.

Buchanan, A. and Moore, M., eds: *States, Nations, and Border: The Ethics of Making Boundaries* (Cambridge: Cambridge University Press, 2003).

Buchheit, L. C.: *Secession: The Legitimacy of Self-Determination* (New Haven, Conn.: Yale University Press, 1978).

Cobban, A.: *The Nation State and National Self-Determination* (New York: Thomas Y. Crowell Co., 1970).

Coppieters, B. and Huysseune, M., eds: *Secession, History and the Social Sciences* (Brussels: VUB Press, 2002).

Coppieters, B. and Sakwa, R., eds: *Contextualizing Secession: Normative Studies in Comparative Perspective* (Oxford: Oxford University Press, 2003).

Couture, J., Nielsen, K. and Seymour, M., eds: *Rethinking Nationalism* (Calgary: University of Calgary Press, *The Canadian Journal of Philosophy*, Supplementary volume, 22, 1996).

Hannum, H. and Babbit, E. A.: *Negotiating Self-determination* (Lexington, Mass.: Lexington Books, 2006).

Held, V., Morgenbesser, S. and Nagel, T., eds: *Philosophy, Morality, and International Affairs* (New York: Oxford University Press, 1974).

Johnson, H. S.: *Self-Determination within the Community of Nations* (Leyden: A. W. Sijthoff, 1967).
Kamenka, E.: *Nationalism: The Nature and Evolution of an Idea* (Canberra: Australian National University Press, 1973).
Kohn, H.: *The Idea of Nationalism: A Study in Its Origins and Background* (New York: Macmillan, 1944).
Lehning, P. B., ed.: *Theories of Secession* (London: Routledge, 1998).
Margalit, A., and Raz, J.: 'National self-determination', *Journal of Philosophy*, 87 (1990), 439–63.
Plamenatz, J.: *On Alien Rule and Self-Government* (London, Longman, 1960).
Rigo Sureda, A.: *The Evolution of The Right of Self-Determination* (Leiden: A. W. Sijthoff, 1973).
Ronen, D.: *The Quest for Self-Determination* (New Haven, Conn.: Yale University Press, 1979).
Seton-Watson, H.: *Nations and States: An Enquiry into the Origins of Nations and the Politics of Nationalism* (Boulder, Col.: Westview Press, 1977).
—: 'Theme issue on self-determination, secession and the creation of states', *Macquarie Law Journal*, 3 (2003).
Tivey, L.: *The Nation-State: The Formation of Modern Politics* (Oxford: Martin Robertson, 1981).
Umozurike, U. O.: *Self-Determination in International Law* (Hamden, Conn.: Archon Book, 1972).
Wellman, C. H.: *A Theory of Secession: The Case for Political Self-Determination* (Cambridge: Cambridge University Press, 2005).

Chapter 47

Sociobiology

ALLAN GIBBARD

Politics is a part of human life, and biology is the study of life. All political beings are biological organisms. These are truisms, but they might suggest lines of investigation. Sociobiology, the name suggests, means social theory taken as a branch of the life sciences. Human sociobiology, then, would apply biological theory to human society. How might this be done?

Living things appear unmistakably to be designed, with miraculous cunning and intricacy. Darwin explained this appearance away: it results from a long, blind process of heritable variation and natural selection. Natural selection mimics design: it will look as if each organism were crafted to promote the representation of its own genes in distant generations. Fancifully, a person is his genes' way of making more of themselves.

How might this bear on human society and politics? A sociobiologist's picture might be this. Social science is an ecology of micromotives; societies consist in the interactions of individuals, their mutual influences (Schelling, 1978). Social facts emerge much as they do with economists' stories of the invisible hand. Men pursue each their own advantage, go the stories, but the amazing result – in the more cheery models – is that society is led, as if by an invisible hand, to satisfy individual wants with Pareto efficiency. Now economists are right to construct such 'micro-theories', a sociobiologist might say: social facts emerge from individual motivations in interaction, and they may emerge surprisingly. Explanations of a practice in terms, say, of its social function, or of a group's collective interests, will stand in need of underlying mechanisms. Economists are wrong, though, if they believe their models too fully, if they claim that a Hobbesian rational egoism gives the full story of human motivation. Social theory needs a more adequate individual psychology – and Darwin might help us find one.

The job of evolutionary theory in this programme, then, will be to suggest promising psychological hypotheses, by explaining how the human psychic makeup came to be what it is. Just as natural selection shaped our anatomy, it shaped our behaviour. Or to speak a little more exactly: nurture as well as nature affects gross anatomy, and it vastly affects behaviour. What our genes gave us was not behaviours, but native propensities to behaviour – perhaps amazingly complex and layered propensities. That genes matter is obvious: even such a close genetic relative as a chimpanzee, raised as you were, would behave quite differently. Environment matters too, though, and vastly.

If you are male, we can tell you this: if you had lived your whole life in certain environments, you not only would be illiterate and have a fine head for proverbs; you would glory in taking human heads as trophies. What our genes might give us is intricate ways for our psychic development to respond to various features of our environments. Genes will code for conditional rules; they may say to develop one way, psychically, if given one set of cues, and other ways if given other cues. Incredibly complex interactions of genes with environment will lead to our feelings, thoughts and actions being what they are.

Human sociobiology has spurred wild controversies. Eminent population geneticists write books with titles like *Not in Our Genes* (Lewontin et al., 1984), and a major philosopher of science calls his book on the subject *Vaulting Ambition* (Kitcher, 1985). E. O. Wilson, who coined the term with his book *Sociobiology* (1975), was attacked as joining a long line of biological determinists. ‘The reason for the survival of these recurrent determinist theories is that they consistently tend to provide a genetic justification of the status quo and of existing privileges for certain groups according to class, race or sex’ (Allen et al., 1975).

Attacks on ‘sociobiology’ as a whole, though, would seem misdirected – at least as I have defined the term. At their broadest, the attacks should be on particular schools or programmes. The term itself may be what misleads us. Many sociobiologists reject it, or use it to apply to whatever they think Wilson did wrong (Wilson, 1975; 1978; cf. Kitcher, 1985, on ‘pop sociobiology’). I myself include as sociobiology any treatment of social phenomena that draws crucially on neo-Darwinian theory. With the term used in this way, it is easy to see how to oppose particular instances or kinds of sociobiology, but hard to see why one should oppose human sociobiology in general. Is the human native makeup not a result of genetic evolution? Is good evolutionary thinking about the human psyche beyond our capacity, or too dangerous even to attempt? Social thought is difficult in general and fraught with dangers, and questions of evidential support always need careful scrutiny. Clearly, though, none of this would justify a blanket moratorium on social thought – and as we think, why renounce the Darwinian framework that so richly explains how species get their characteristics?

Altruism

What, then, might evolution tell us of human motivation? Darwin threatens a paradox. We see human beings, at times, constraining their actions by the requirements of morality. Sometimes people act to help others. Whether any but self-interested actions are to be found in us has long been debated, but we do seem to find such actions – not often enough, but at times. Yet if our genes single-mindedly programme us to reproduce them, how would altruism be possible? Will one person’s genes help another’s reproduce? This is the sociobiological paradox of altruism.

One response is that altruism benefits the species or the group. The current wave of sociobiology started with a vigorous critique of such species and group selectionism (Williams, 1966). A gene that enhances one’s group’s reproduction at the expense of one’s own, goes the critique, will be a loser: as the group gets bigger, the gene will become less and less common within the group. Vigorous modelling and debates over

group selection have ensued, but the prevailing view is that group selection could be rare at best. It arises only in extreme conditions – and so we should look elsewhere to explain human altruism.

One prime suspect must be *kin selection.* Roughly half my genes I share with my full-sister. My genes can reproduce by helping hers to reproduce: genetically speaking, two full nieces are on average worth a daughter. This lore is attributed to J. B. S. Haldane, and Hamilton (1964) worked out a full mathematical model for it. Natural selection promotes not individual fitness but *inclusive* fitness: not just having grandchildren, but also having great-nephews and -nieces and the like, each weighted by the proportion of one's genes they carry. Dawkins (1976) proposes it is the genes we should think of as selfish – figuratively. Genes could promote their reproduction in close kin by coding for altruistic motivations.

Much apparent altruism, though, is not directed at close kin. One explanation could be that modern conditions are evolutionarily novel, so that now we respond to non-kin as we were designed to respond to kin. This can't be the full story, though. In tribal societies, social co-operation is likely to be organized along kin lines, but co-operating relatives may be fairly distant genetically. Trivers (1971) initiated discussions of 'reciprocal altruism', dispositions, in effect, to trade benefits. Some altruistic propensities may have been selected for because they elicit reciprocal benefits (see Frank's 1988 treatment of moral emotions). Trivers has spurred much science, and also speculation by philosophers. Schelling, in his famous game-theoretic treatment of rational bargaining (1960, ch. 2), had stressed that reciprocity – even mutual restraint in hostilities – requires co-ordinated expectations on the terms of trade. Maynard Smith (1974; 1982) applied an evolutionary analogue of game theory to animal conflicts, and developed the concept of an *evolutionarily stable strategy* (or ESS). This is roughly an assignment of strategies to organisms such that each, given the strategies of the others, is doing as well reproductively as possible (an ESS is much like a 'Nash equilibrium' in game theory). In Schelling's sense, ESSs are co-ordinated. Rawls treats common standards of justice as producing such co-ordination, and suggests that natural selection would favour 'the capacity to follow the principles of justice and natural duty in relations between groups and individuals other than kin' (1971, p. 504). 'The system of the moral feelings', he adds, might evolve 'as stabilizing mechanisms for just schemes'. By 'the principles of justice' Rawls means his own Two Principles, and so he seems to be picturing human standards of justice as 'wired in' as a biological adaptation. Gibbard (1981) speculates that standards of justice might instead emerge in discussion, so that the adaptations involved are propensities to engage in discussion in certain ways and to be motivated by the results. He proposes this (1990) as an account of what is going on with normative judgement in general: we are adapted to attain a special kind of psychic state he calls 'accepting a norm'. Propensities to engage in 'normative discussion' co-ordinate the norms people accept, and 'normative governance' – a tendency to act on the norms one accepts – leads to co-ordinated action. These combined propensities constitute an ESS, and thus solve a kind of evolutionary bargaining problem.

In such treatments, it is crucial to distinguish an individual's goals, concerns and benefits from the figurative aims of the genes. A person may, for instance, care strongly about not being cheated, and be motivated accordingly. The evolutionist's question is then: how did he come to have this concern? Why does he have a genetic makeup such

that, given his lifetime environment, he cares strongly about not being cheated? Many kinds of answers are possible, but one might be that this is the work of a biological adaptation. It is a matter of special genetic 'design' to have such motivations in such circumstances. That is to say, extant people are genetically disposed towards having such motivations in such circumstances, because those members of the ancestral population who did tended to be the ones who reproduced. The features of this genetic programme that promoted reproduction then constitute the figurative aims of one's genes: the *biological function* of the feature they code for.

Adaptive Contingency Plans

Sociobiologists are often accused of genetic determinism. Now if genetic determinism means that genes matter for behaviour, the thesis seems hard to reject. Dogs act differently from humans, and this is not just a matter of different environments. If, on the other hand, genetic determinism means that genes settle behaviour independently of environment, then it is biological nonsense. Genes programme organisms to reproduce, and reproduction will often require being responsive to features of the environment. What we can expect from genes is contingency plans: psychic mechanisms that respond to different environmental histories with different motivations. The sociobiologist's problem is to identify what these adaptive contingency plans are.

Are there genes for behaviour then? The development of a psychic mechanism might be programmed by hundreds of genes, but a genetic programme develops by the selection of a gene at each locus. If a gene is part of the programme because of selection pressures that worked through behaviour, then it follows that in some ancestral environment, the gene made a difference to what organisms did. In this sense, we can well expect that there are genes for behaviour (Tooby and Cosmides, 1990, p. 44).

This in no way means that when people behave differently, it must be because their genes differ. Genes govern not so much behaviour directly, but the ways behaviour will respond to certain features of the environment. Still, geneticists devote great efforts to finding what individual differences are 'heritable' – and it is easy to confuse genetic 'heritability' with adaptation. The two are quite different, it can hardly be overstressed. With human beings, walking erect is an adaptation, but it is not heritable in the geneticist's sense. Adaptation is a matter of history: does the propensity to a behaviour result from genetic programming in response to selection pressures that favoured that very propensity? With walking erect, the answer must be yes – perhaps because of the advantages of having one's hands free. Genetic heritability is a matter of current population: to what extent are observed differences between people in current environments – psychic and behavioural differences, for example – a result of current genetic differences? Bipedal motion is not heritable; crawling doesn't run in the family for adults. Adaptations like walking erect are a result of heritability only in the past: in an ancestral population, different genes made for different tendencies to walk erect – and the genes that made for walking erect did better. Long ago, though, the genes came to fixation. Adaptations are not heritable for long; they win out (Tooby and Cosmides, 1990, pp. 37–9).

The crucial questions, then, are what adaptations all human beings share, and how these adaptations figure in human life and societies. How should these questions be

studied? Some researchers seem to hypothesize that people act in general to promote their inclusive fitness. A research programme would follow: to investigate, in a variety of early circumstances, whether striking behaviours indeed do promote agents' inclusive fitness, and how. Dickemann (1979), for instance, wrote of a group of nineteenth-century Brahmins in India who killed all their newborn daughters. This, she argued, promoted their inclusive fitness.

This hypothesis, though, even if true, would not explain Dickemann's fascinating data. Evolution tells us to expect not some general tendency to spread one's genes, but specific adaptive mechanisms: ones that worked to enhance individual reproduction in the circumstances of our proto-human hunting-gathering ancestors (Symons, 1987). Reproduction even in primitive human social circumstances will pose incredibly complex problems. There could be no tractable general way to maximize it. Evolution would have to select for specific psychic stratagems that tended to work on the whole – what computer scientists call 'heuristics' (Nisbett and Ross, 1980). Evolutionists studying the beasts, to be sure, can often postpone asking about mechanisms, if the current environment is relevantly like the ancestral one. Modern human beings, though – even primitive horticulturalists – live in social environments sharply different from those of our distant ancestors. We are adapted to reproduce in hunting-gathering groups, and so human sociobiologists cannot expect that we will always reproduce well in current social circumstances. (Note the low current fitness, or 'reproductive success', of European populations in various parts of the world.)

Human Ecology

We should picture psychic mechanisms, then, as rough stratagems that genes found in long-ago times for enhancing their reproduction. This leads to a Darwinian human ecology. Human genetic evolution always proceeded in social and cultural settings. Human genes and hunting-gathering cultures coevolved. As a result, we appear intricately – though imperfectly – designed to reproduce in the complex cultural surroundings of our increasingly human ancestors. At the same time, their emerging cultural life was a matter of the interactions and mutual influences of genetic products of this design.

How, though, can we study long-ago cultures that rarely left even fossils? We can look to current hunter-gatherers, but they are peoples who have been pushed to the parts of the earth no one else wanted, and they interact with surrounding horticulturalists. We don't know, then, how much their lives tell us of life when hunter-gatherers had the run of the earth.

We get some hints of the possibilities, though, by constructing simple mathematical models. We can model gene-culture coevolution, and check the results against current human beings. Boyd and Richerson (1985) make a major start on such a programme. They study, among other things, the reproductive advantages of emulating role models. In complex social circumstances, no practicable mechanism could compute directly what modes of life will work best reproductively. Imitation may be the best stratagem. The best way might even be to emulate someone's mode of life indiscriminately, even if some aspects of the target life do not in fact enhance the reproductive prospects of

anyone. It may be too hard to fathom which aspects of a way of life do the work of promoting reproductive prospects. Think of such emulation not as a thought-out plan, but figuratively as a scheme of the genes.

What sorts of mechanisms could genes code for to enhance reproductive prospects through such emulation? First, mechanisms would have to select whom to emulate. The selection must be astute: adopting the wrong role model can shatter one's reproductive prospects instead of enhancing them. The mechanisms, then, must respond to observable features of candidates for emulation. These should be features that, in ancestral environments, were good proxies for reproductive success. A good role model (from the genes' point of view) has two virtues: good reproductive prospects and successful emulability – relevance, that is, to oneself. Portents of reproductive success might include signs of admiration, or wealth or domination. Indications of successful emulability might include badges of membership in one's own social group: being a family member or family friend, or having the same style of talk, dress and the like as do family and friends. This picture suggests, then, why we might be equipped to find style of life so crucial.

When people interact, and each is equipped to select others as models for emulation, the emergent social effects can be remarkable. Boyd and Richerson (1985, ch. 8) model 'runaway' cultural processes; these bear analogy to the runaway sexual selection that population geneticists study – the kind that leads to peacocks' tails and the like. Such runaway culture could explain anthropologists' frequent talk of culture as detached from human genes. Taken at face value, such talk must be nonsense: it makes it sound as if human genetic adaptations don't matter for culture. It appeals to a false dichotomy between the genetic and the cultural – whereas genes will code for rules for responding to cultural cues. Taken more charitably, the claim might be that human genes code for one very general mechanism of cultural learning, such as Locke's *tabula rasa*, or an undifferentiated tendency to imitate others, or a broad tendency to do things that have been pleasantly reinforced. On this two things must be said. First, even broad tendencies like these would need far more specification, and specifying them would make it clear that even they require the human psyche to have a native structure. If we imitate others, then what if different people around us do different things? Do we average, or choose someone at random to emulate, or always choose our early nurturers, or what? We choose 'attractive' role models, it might be said – and so what makes us find them attractive? Second, indiscriminate absorption of culture seems a bad evolutionary plan. It has some advantage: if one emulates the living, one emulates a way of life that allowed survival, and if one emulates parents (or one's role models did), one emulates a mode of life that led to reproduction. Still, far better, from the genes' perspective, if one can latch onto cues that have gone – on the whole in ancestral environments – with emulation's leading to high reproduction. Boyd and Richerson's models show that our genes might code for refined propensities to select whom to emulate and that, still, the resulting interactions could lead to a dynamic of runaway culture.

Fallacies

It is pernicious to think that the natural must be good, or that it must be unavoidable. Everything that happens is natural, and much that happens is avoidable. Not all human

biological adaptations are good. Man's bellicosity was noted long before Darwin, and it may involve biological adaptations. Warfare might even have been a prime force in the explosion of proto-human intelligence: for small human beings to hunt big game in a group takes intelligence, but enough might be enough: the game don't get smarter as the hunters do. In war, over the millennia, the enemy will get smarter as you do: he is of your species. Military and diplomatic guile could become objects of a genetic arms race (Alexander, 1979, pp. 211–33). Still, if men are adapted, given certain cues, to killing, looting, destruction and rapine, that doesn't make such things good.

Still, this scenario must be chilling: warfare, it suggests, may be very difficult to eliminate, and some rosy stories of what would end it are simplistic. We shouldn't, though, need evolution to see bellicosity as a terrifying problem – and nothing in such a story tells us that war and nuclear holocaust are inevitable. We know that many men go their whole lives without trying to kill. Sometimes too, though, peaceful neighbours quickly fall into murderous enmity, and this we must recognize as a part of our human predicament. It may be sad but true that men – adult males in particular, that is – are adapted to be killers given certain environmental cues (cf. Daly and Wilson, 1988). Our problem is to construct a world where no one receives those cues. Over substantial areas and periods, that has been done from time to time.

What, then, of sociobiology's political motivations? Racists, oppressors and others can travesty any material. We must oppose misuse, but it would be vain to seek a theory that could not be perverted. The bigger problem, though, may not be fanaticism but confusion. Some distortions will stem from political motivations, but a lot may result from the sheer difficulty of the subject.

Sociobiology must be a shaky basis for political thought; at best it is a group of infant research programmes. The alternatives too, though, are shaky. We should reject pseudo-scientific claims of sociobiologists, but not, say, to make way for a dogmatic Marxism, or for a hazy environmentalism. As for good old common sense, it leaves much in social life mysterious. Why do people marry at times, and at other times divorce? Why, in many places, do they now marry less and divorce more? Why do men sometimes support their children and sometimes leave them destitute? Why do some parents abuse their children and others not? Why do teens sometimes make such horrendous choices, and sometimes progress marvellously? Why are social groups sometimes well disposed to each other and sometimes at each others' throats? Common sense has things to say, of course: people marry because they fall in love, and they divorce because they can't stand each other. Why, though, do the same two people fall in love at one time and later find they cannot stand each other? Common sense needs help, and sociobiological considerations may suggest hypotheses. (See Kitcher, 1985, pp. 84–8, for what may be a rosier view of the explanatory powers of folk psychology.)

Sociobiologists have been attacked for the sins of 'adaptationism' and 'Panglossianism': thinking that all important features of organisms are adaptations, and that organisms are somehow designed for the best (Gould and Lewontin, 1979). An adaptation is metaphorically an object of 'special design'; an artefact is a by-product. Red blood is an artefact; the selection that made blood red was for oxygen transport. Reading is an artefact. Biologists are at pains to distinguish ways in which a feature can be an evolutionary artefact: pleiotropy, linkage and genetic drift, and others (Kitcher, 1985, p. 57). The evolution of the human mind, moreover, has had to work within a

mammalian and ape-like *Bauplan* (Gould and Lewontin, 1979). Our species was cobbled together from apes in an evolutionary twinkling, and the job must have been rough.

Still, where we find strong evidence of special design, we should expect adaptation. Fish gotta swim and birds gotta fly, and we don't have to wait to learn if wings are adaptations. The best sociobiological work is at pains to distinguish adaptations from evolutionary artefacts (Williams, 1966; Symons, 1979). Where selection pressures are strong we should expect adaptive shaping. A propensity to rush into battle, say, clearly matters to reproduction, and we must ask why selection pressures did not eliminate any such tendency. Sociobiologists should be cautioned but not cowed. (See Dawkins, 1982, ch. 3.)

Group Differences

Sociobiology, I have stressed, should focus on features of genetic design that all people share. Still, human differences figure greatly in our lives and our thoughts, and they need discussion.

'Racial' groups differ in skin colour and hair texture, and individuals differ in height and eye colour. Men and women differ in their genitalia and in voice pitch. We accept that these differences are heritable. Sociobiology has been embraced by some as telling us that genetic group differences extend not only to qualities like these, but to qualities that bear on human worth, or on one's suitability for good jobs, political power and other routes to privilege. Many hope – or fear – that the evidence is plain, and suspect that the facts are being suppressed for fear of social consequences. Claims like these are explosive, as we all know, and it would be worthwhile trying to say explicitly why group differences threaten us in a way that individual differences do not.

Biological theory and scraps of evidence, though, now suggest that psychically, all ethnic groups are genetically pretty much alike. At times groups do differ hugely in performance, and old attempts to explain these differences have seemed hard to sustain – fuelling suspicion that racists have been on to something. New studies, though, offer a new kind of explanation: they begin to explain even gross differences in group performance as the upshot of adaptations all people share.

Group genetic differences are differences in frequency. No genes are present in what we think of as one racial group and absent in another. Still, where groups have long been separate and in different environments, selection pressures can make for sharp adaptive differences. Skin colour is the prime example: long tropical ancestry selects for genes for dark skin; long northern ancestry for genes for light skin. When groups from far parts of the world settle together, then at first certain heritable characteristics may distinguish them. Talk of 'race' then makes some local sense.

Still, the basic plan for all human beings is the same. There is no race with the heart on the right. Tooby and Cosmides (1990) argue from general biological considerations that the same must hold for the human mind: humanity enjoys a unified psychic design. The mind will be composed of genetically coded 'organs', each in effect designed to solve a recurrent reproductive problem. Each organ's development will be coded for by hundreds or thousands of genes. Now in sexual reproduction, genes recombine, and if mother's and father's genes did not code for the same organs, the result would be

chaos – and no grandchildren. Members of a species can mate to produce reproductive offspring, and so within a species, the design of organs must be universal. This includes psychic organs (Tooby and Cosmides, 1990, pp. 26–30).

There may nevertheless be individual variation in the detailed execution of the design. The genetic variability of individuals is vast: two neighbours will differ in a quarter of their protein codings. This genetic diversity is tied in with sexual reproduction, which reshuffles DNA. Sex has long been a biological puzzle, but a recent hypothesis is standing up well against evidence and modelling: that sex protects us from germs. Our parasites exploit our body chemistry to reproduce, and they reproduce many generations for each one of ours. They can adapt genetically to our body chemistry far more quickly than we can adapt genetically to resist them. If we and our neighbours were alike in our body chemistry, germs fit to infect one of us could easily infect us all. Nature's solution has been sex – or so goes this hypothesis. Sex makes each of us unique in detailed chemistry, even though we must be alike in functional organization. The effect of the pressure to diversify body chemistry is to vary, and even degrade, the execution of the universal human functional design in each individual. This could explain heritable variation among individuals in ethnically homogeneous communities (Tooby and Cosmides, 1990). (Whether heritable variability in important human capacities has been established at all is controversial; see Lewontin et al., 1984, ch. 5; Plomin and Daniels, 1987.)

What, then, of ethnic groups? In the same population, 85 per cent of human genetic variance is within individuals and only 7 per cent between 'races' (Lewontin et al., 1984, p. 126). Most genetic variability stems from selection pressures to differ chemically from one's neighbours; one does not often catch diseases from people across the sea. Still, this allows for some group differences, if they are adaptively neutral and adventitious. It allows too for genetically coded group differences that were adaptive for each group in its distinct circumstances. Might some such adaptive differences be psychic? Genes will not code for different functional architectures in different individuals – this we have already said. The highly general theory of Tooby and Cosmides, though, is inconclusive on whether there might be adaptive genetic differences among groups in psychic *parameters:* in matters of more or less that can vary separately, as skin colour does, without debilitation. A prime example might be thresholds for genetically programmed responses (Tooby and Cosmides, 1990, pp. 47–8).

Even group differences like these, however, could arise only in conditions that met strong demands. The environmental differences that make them adaptive must have endured for many generations – probably for scores at least – and there must be a trade-off: different values of the parameter must have been more adaptive in different circumstances. Take 'native intelligence', if there is such a thing: in no environment will low intelligence be an advantage in itself. What, then, are the trade-offs supposed to be? What advantages could be incompatible with intelligence, so that intelligence is traded off for them in certain environments? In this case, a good 'just so' story is hard to find.

A more promising genetic strategy would be to programme environmentally triggered 'switches' or contingency plans. These could respond to hints about what behavioural strategies would best work for reproduction in one's particular circumstances.

Suffering violence in childhood, for instance, might be a good sign that one is in a social milieu where violence pays. We might, then, be programmed to lower our thresholds for violence if battered as children. Such a mechanism might help account for the finding that child abusers tend themselves to have been abused as children (Tooby and Cosmides, 1990, p. 54).

Reactive Heritability

Environmentally triggered switches can make a trait technically 'heritable', even though differences in the trait are not themselves 'in the genes'. We might all be endowed, for instance, with a mechanism that sets one's level of brashness or timidity by assessing one's physical prowess, compared to those around one. Genes that coded for small size, relatively, would thus make for timidity, but indirectly. (The same genotype among pygmies would make for brashness.) Timidity, then, would be genetically 'heritable', but only because genes for size interact with a genetically coded parameter-setting mechanism for brashness/timidity that weaklings and hulks all share. This is called *reactive* heritability (Tooby and Cosmides, 1990, pp. 58–60).

Recent studies suggest that disturbing group psychic differences – the 'underclass' phenomena of low average measured IQ, poor average school performance, terrible rates of criminality, and the like – might stem from a combination of genetically programmed environmental switches and such reactive heritability. The directly heritable features would be skin colour and other salient marks of 'racial' appearance. These may, in special current environments, indirectly trigger switches that we all share, light and dark. Scarr and co-workers (1977) used blood samples from Philadelphia children classified as 'black' to estimate percentages of European and African ancestry. Skin colour varies somewhat independently of this percentage. Measures of intellectual skills, these researchers found, do correlate with skin colour, but not because skin colour correlates with African ancestry. Once they held skin colour constant, they found no correlation between intellectual skills and proportion of African ancestry. Some consequence of mere pigmentation was making the difference – indeed almost as big a difference as the measured socio-economic factors (Scarr et al., [1977] 1981, p. 176).

The 'underclass' pattern is found across the world, wherever there are caste-like minority groups (Ogbu, 1986, pp. 31–4). Even with racially similar groups like the Buraku minority and Ippan majority of Japan, minority IQ scores are roughly a standard deviation down from the majority – as with black Americans. The gap disappears among immigrants to America, where majority culture does not distinguish the two Japanese groups.

Claude Steele (1992) proposes a mechanism to explain these things: a *disidentification* with majority roles and values, in response to cues of stigma and group devaluation. We strive powerfully to protect our self-esteem, and self-conception fixes the realms of achievement to which self-esteem responds. When members of a group encounter signs of stigma, they may respond by transforming their self-conception and redirecting their self-esteem. One American study of black and white children in a

classroom found this: whereas, on average, the blacks in this class had substantially lower grades than the whites, they had equal overall levels of self-esteem. Black children played down school and played up their skills in peer group relations (Hare and Castenell, 1985). They had rejected majority values and rendered their self-esteem impervious to their disastrous school performance. These are symptoms of disidentification with a majority role: the role of a good student with bright prospects. The tragedy extends to students at major American universities. Among black and white students with equal test scores on entry, black students get sharply lower grades, and drop out in far greater proportions. Indices of disidentification turn out to predict black students' grades better than do measures of ability and preparation. Disidentification is enforced as a group norm, with hard-studying blacks at one top university derided by other black students as 'incognegroes' (Steele, 1992).

What triggers this painful and self-thwarting disidentification? Steele's answer is that tying one's identity to school performance requires 'treatment as a valued person with good prospects'. Identification involves 'holding one's esteem at least partially accountable to achievement. And this requires believing that school achievement can be a promising basis of self-esteem'. Initially, he finds, teachers seem not to respond to 'black' students' academic talents, to demand and then praise intellectual performance. Steele does identify scattered programmes that succeed in treating deprived black students as valued people with good prospects. These programmes have had striking success: they spur achievement and allay any protective disidentification.

Mechanisms like these fit Tooby and Cosmides' talk of environmentally triggered adaptive 'switches', and they show the flip side of Boyd and Richerson's model of wholesale identification with role models. Among our ancestors it might have been adaptive to be extremely sensitive to cues as to which roles are emulable. Perhaps we are programmed to respond specially to cues of stigma: to cues that a role we might aspire to is 'not for the likes of you'. It could be adaptive to focus one's aspirations on models that are realistic for people of one's own group. Self-esteem is a chief spur to maintaining a role and achieving within it, and it could be highly adaptive to focus one's self-esteem on the qualities needed for attainable roles.

Sharp group differences in measured IQ and the like, then, may well be the upshot of biological adaptations we all share: environmentally triggered switches that determine whom one will emulate, and where one's self-esteem will be invested. In many cases, a strong element of reactive heritability is involved: for want of a light skin, say, IQ-test performance and much else may be lost.

Commentary

Most applications of sociobiology run aground on botched understandings, and so I have mostly been expounding the subject, not trying to apply it to political philosophy. Various writers have been searching for philosophical morals to be drawn from human sociobiology (see, for instance, Singer, 1981; Murphy, 1982; Alexander, 1987; Gibbard, 1990), but these attempts are at best newborn and struggling. We can say almost

truistically that no *ought* comes from a biological *is* alone, and that we must not automatically celebrate the 'natural'. Truistically too, though, facts do bear on the oughts, and bear crucially. Methodologies like Rawls's (1971) 'wide reflective equilibrium' explicitly steer clear of delimiting in advance the ways they can bear.

Is there any upshot, then, for political philosophy? The most evident philosophical import comes where philosophy merges with political and social advocacy. Social engineering requires knowing one's materials, and the aim of human sociobiology is a good theory of human nature. Still, however secure Darwinism may be as a general account, specific claims – theories about the mechanisms of human motivation, fulfilment, and the like – must be taken with a grain of salt. It may be rash to stake a lot on some particular sociobiological account's being right.

Let me finish, nevertheless, with a capsule of broadly political commentary. The core of modern political theory has been a kind of egalitarianism. Its key drive has been to replace ascriptive status with earned status. High political and social roles are not to depend on group, sex or parentage. Now biology, to be sure, cannot tell us directly what to value, but it can bear heavily on questions of feasibility.

The hopes the new Darwinian psychology can raise for the egalitarian seem mixed at this point. Humanity's unity of design means that no ethnic group is precluded by sheer genetic capacity from rewarding, socially valued roles. As individuals we probably do differ substantially in some of our genetic psychic propensities, and so too, on average, we may as men and women. Still, we no doubt see far more variation than traces in any simple, direct way to differing genes. The most disturbing news for us egalitarians may stem not from genetic differences, but from the complexities of human motivation: from mechanisms such as role-modelling, self-conception, investment of self-esteem, and the like – mechanisms we all share. It may be mechanisms like these that especially frustrate social attempts to channel human strivings for the good. They must be designed by the genes, in effect, to resist various kinds of manipulation, or they could too easily render one a dupe of manipulators around one. That does not mean that we cannot manage better, socially, with a better understanding of these mechanisms. Why should the advertisers have all the good stratagems? Still, mechanisms like these may well guarantee not only that we will differ sharply from each other – 'Vivent les différences!' we can reply – but that some of the consequences will be sad and serious, and difficult or worse to correct.

History, if this is right, will not come to an end. Human talents and aspirations, our attachments and loyalties and enthusiasms will always be manifold. Mechanisms for humiliation, hatred and deprecation will always stand waiting in the background, even if we attain conditions that keep them from being activated. Our prime social challenges will be to cope: in the face of these things to keep the peace, to elicit the varied strivings we require from each other, and to foster dignity, fulfilment and the rewards of intimacy for the widest variety of people.

One hope must be that a better understanding of the human psyche will help us pursue these aims. Humanity is complex enough that straight flights towards social betterment will often crash. We are beginning to see how our psychic complexity might stem from the reproductive challenges of our proto-human ancestors. Imaginative and careful theorizing about humanity may help political theorists understand the pieces that go into our grand political and social puzzles.

References

Alexander, R. D.: *Darwinism and Human Affairs* (London: University of Washington Press, 1979).

—: *The Biology of Moral Systems* (Hawthorne, NY: Aldine de Gruyter, 1987).

Allen, E. et al.: 'Letter to the editors', *The New York Review of Books* (13 November 1975).

Boyd, R, and Richerson, P. J.: *Culture and the Evolutionary Process* (Chicago, Ill.: University of Chicago Press, 1985).

Buss, D. M.: 'Sex differences in human mate preferences: evolutionary hypotheses tested in 37 cultures', *Behavioral and Brain Sciences*, 12 (1989), 1–49.

Daly, M. and Wilson, M.: *Homicide* (New York: Aldine, 1988).

Dawkins, R.: *The Selfish Gene* (Oxford: Oxford University Press, 1976).

—: *The Extended Phenotype* (San Francisco, Calif.: W. H. Freeman, 1982).

Dickemann, M.: 'Female infanticide, reproductive strategies, and social stratification: a preliminary model', *Evolutionary Biology and Human Social Behavior: An Anthropological Perspective*, ed. N. A. Chagnon and W. Irons (N. Scituate, Mass.: Duxbury, 1979), pp. 321–67.

Frank, R. H.: *Passions within Reason: The Strategic Role of the Emotions* (London: W. W. Norton, 1988).

Gibbard, A: 'Human evolution and the sense of justice', *Midwest Studies in Philosophy VII: Social and Political Philosophy*, ed. P. A. French, T. E. Uehling and H. K. Wettstein (Minneapolis: University of Minnesota Press, 1981).

—: *Wise Choices, Apt Feelings: A Theory of Normative Judgment* (Oxford: Oxford University Press, 1990).

Gould, S. J. and Lewontin, R. C.: 'The spandrels of San Marco and the Panglossian paradigm: a critique of the adaptationist programme', *Proceedings of the Royal Society of London*, B 205 (1979), 581–98. Reprinted in *Conceptual Issues in Evolutionary Biology*, ed. E. Sober (Cambridge, Mass.: MIT Press, 1984).

Hamilton, W. D.: 'The genetical evolution of social behaviour I', *Journal of Theoretical Biology*, 7 (1964), 1–16.

Hare, B. R. and Castenell, L. A.: 'No place to run, no place to hide: comparative status and future prospects of black boys', in *Beginnings: The Social and Affective Development of Black Children*, ed. M. B. Spencer, G. K. Brookins and W. Allen (Hillsdale, NJ: Erlbaum, 1985).

Kitcher, P.: *Vaulting Ambition: Sociobiology and the Quest for Human Nature* (London: MIT Press, 1985).

Lewontin, R. C., Rose, S. and Kamin, L.: *Not in Our Genes* (New York: Pantheon, 1984).

Maynard Smith, J.: 'The theory of games and the solution of animal conflicts', *Journal of Theoretical Biology*, 47 (1974), 209–21.

—: *Evolution and the Theory of Games* (Cambridge: Cambridge University Press, 1982).

Murphy, J. G.: *Evolution, Morality, and the Meaning of Life* (Totowa, NJ: Rowman and Littlefield, 1982).

Nisbett, R. and Ross, L.: *Human Inference: Strategies and Shortcomings of Social Judgment* (Englewood Cliffs, NJ: Prentice-Hall, 1980).

Ogbu, J. U.: 'The consequences of the American caste system', in *The School Achievement of Minority Children*, ed. U. Neisser (London: Lawrence Erlbaum Associates, 1986).

Plomin, R. and Daniels, D.: 'Why are children from the same family so different from each other?', *Behavioral and Brain Sciences*, 10 (1987), 1–16.

Rawls, J.: *A Theory of Justice* (Cambridge, Mass.: Harvard University Press, 1971).

Scarr, S., Pakstis, A. J., Katz, S. H. and Barker, W. B.: 'Absence of a relationship between degree of white ancestry and intellectual skills within a black population', *Human Genetics*, 39 (1977),

69–86. Reprinted in *Race, Social Class, and Individual Differences in I.Q.*, ed. S. Scarr (Hillsdale, NJ: Erlbaum, 1981).

Schelling, T. C.: *The Strategy of Conflict* (Cambridge, Mass.: Harvard University Press, 1960).

—: *Micromotives and Macrobehavior* (New York: Norton, 1978).

Singer, P.: *The Expanding Circle: Ethics and Sociobiology* (New York: Farrar, Straus, and Giroux, 1981).

Steele, C. M.: 'Race and the schooling of black Americans', *Atlantic*, 269, 4 (April 1992), 68–78.

Symons, D.: *The Evolution of Human Sexuality* (Oxford: Oxford University Press, 1979).

—: 'If we're all Darwinians, what's the fuss about?', in *Sociobiology and Psychology: Ideas, Issues, and Applications*, ed. C. B. Crawford, M. F. Smith and D. L. Krebs (Hillsdale, NJ: Erlbaum, 1987).

Tooby, J. and Cosmides, L.: 'On the universality of human nature and the uniqueness of the individual', *Journal of Personality*, 58 (1990), 17–67.

Trivers, R.: 'The evolution of reciprocal altruism', *Quarterly Review of Biology*, 46 (1971), 35–57.

Williams, G. C.: *Adaptation and Natural Selection: A Critique of Some Current Evolutionary Thought* (Princeton, NJ: Princeton University Press, 1966).

Wilson, E. O.: *Sociobiology: The New Synthesis* (Cambridge, Mass.: Harvard University Press, 1975).

—: *On Human Nature* (Cambridge, Mass.: Harvard University Press, 1978).

Chapter 48

Sovereignty and Humanitarian Military Intervention

MICHAEL DOYLE

The United Nations General Assembly has described *intervention* as dictatorial interference in the political independence and territorial integrity of a sovereign state. Traditionally, intervention was prohibited by international law. This principle of non-intervention, its justification and possible exceptions to it have been much discussed (Vincent, 1974; Graham, 1987; Beitz, 1988; Teson, 1997; Abiew, 1999; Garrett, 1999; Holzgrefe and Keohane, 2003).

Non-intervention has been an especially important principle for liberal statesmen and moralists with a commitment to universal human rights. On the one hand, liberals have provided some of the strongest reasons to abide by a strict form of the non-intervention doctrine. Immanuel Kant and John Stuart Mill thought that it was only within secure borders that peoples could govern themselves as free citizens. On the other hand, those same principles of universal human dignity have provided justifications for overriding the principle of non-intervention. In explaining this, I first present an interpretive summary of Mill's arguments against and for intervention, stressing, more than has been conventional, the consequentialist character of the ethics of intervention. It makes a difference whether we think that an intervention will do more good than harm, and some of the factors that determine the outcome are matters of strategy and institutional choice. I then explore the significance of multilateral authorization and implementation – in part to see whether they can substitute for elements that are often missing in unilateral interventions.

Mill's Principles of Non-intervention and Intervention

John Stuart Mill developed the core of a modern understanding of human dignity and its implications for hard political choices. He saw humans as fundamentally equal, sentient beings capable of experiencing pleasure and pain. Our natural sympathy should thus lead us to choose acts and rules that maximize pleasure and minimize pain for the greatest number. Importantly, Mill wanted to constrain this maximization of utility by the freedom to lead unrestricted lives that did not harm the freedom of others. And he insisted that not all pleasures and pains were equal: some were higher, some

lower; some expressed human creativity, others did not; poetry was better than pushpin (a nineteenth-century version of Gameboy®or Nintendo).

Politically, two principles followed from his application of utilitarian ethics. The first was maximum equal liberty, allowing each adult to develop his or her own potentiality on the view that each individual was the best judge of what was and was not in his or her interest, so long, however, as no one interfered with the equal liberty of others. The second was representative government. To maximize the utility value of collective decisions it would be best to give decisive weight to the preferences of the majority, as represented by knowledgeable politicians.

Internationally, one might think that these principles would give rise to a commitment to an international version of the US Constitution's 'Guarantee Clause' (Art. IV, 4) in which each state is guaranteed (i.e. required to have) a republican representative form of government, and the 14th Amendment, which requires all states to provide equal protection of the laws to all citizens. But for Mill this was not so. He argues against that kind of a global guarantee, drawing thereby an important line between domestic and international justice.

Non-intervention

Arguments against intervention have taken the form of both direct principles and indirect, or procedural, considerations. Like many liberals, Mill dismissed without much attention Realist arguments in favour of intervention to promote national power, prestige or profits. However prevalent those motives have been in history, they lack moral significance, as for that matter would justifications associated with intervening to promote an idea or ideology.

The most important *direct* consideration for the liberals was that non-intervention reflected and protected human dignity (or rights, though Mill disliked the word). Non-intervention could enable citizens to determine their own way of life without outside interference. If democratic rights and liberal freedoms were to mean something, they had to be worked out among those who shared them and were making them through their own participation. Kant's 'Perpetual Peace'(1795) had earlier made a strong case for respecting the right of non-intervention because it afforded a polity the necessary territorial space and political independence in which free and equal citizens could work out what their own way of life would be (Kant, [1795] 1970). For Mill, intervention undermined the authenticity of domestic struggles for liberty. A free government achieved by means of intervention would not be authentic or self-determining but determined by others and not one that local citizens had themselves defined through their own actions. (Good governance was more like poetry than pushpin.)

John Stuart Mill provided a second powerful direct argument for non-intervention, one focusing on likely consequences, when he explained in his famous 1859 essay, 'A Few Words on Non-intervention', that it would be a great mistake to export freedom to a foreign people that was not in a position to win it on its own (Mill, [1859] 1973). A people given freedom by a foreign intervention would not, he argued, be able to hold on to it. It's only by winning and holding on to freedom through local effort that one acquired a true sense of its value. Moreover, it was only by winning freedom that one acquired the political capacities to defend it adequately against threats both at home and

abroad. The struggle mobilized citizens into what could become a national army and mobilized as well a capacity and willingness to tax themselves for public purposes.

If, on the other hand, liberal government were to be introduced into a foreign society, in the 'knapsack', so to speak, of a conquering liberal army, the local liberals placed in power would find themselves immediately in a difficult situation. Not having been able to win political power on their own, they would have few domestic supporters and many non-liberal domestic enemies. They then would wind up doing one of three different things: either (1) begin to rule as did previous governments, that is, repress their opposition. The intervention would have done no good; it simply would have created another oppressive government. Or (2) simply collapse in an ensuing civil war. Intervention, therefore, would have produced not freedom and progress, but a civil war with all its attendant violence. Or (3) the interveners continually would have to send in foreign support. Rather than having set up a free government, one that reflected the participation of the citizens of the state, the intervention would have set up a puppet government, one that would reflect the wills and interests of the intervening, the truly sovereign state (Ellis, 1992).

A third argument against intervention was difficulties of transparency. Historically, it has proven difficult to identify authentic 'freedom fighters'. Particular national regimes of liberty and oppression are difficult for foreigners to 'unpack', reflecting, sometimes, complicated historical compromises and contracts of a Burkean sort among the dead, the living and the yet to be born. Michael Walzer as did Mill, acknowledges, that sovereignty and non-intervention ultimately depend upon consent. If the people welcome an intervention, or refuse to resist, something less than aggression has occurred (Walzer, 1985). But we cannot make those judgements reliably in advance. We should assume, he suggests, that foreigners *will* be resisted, that nationals will protect their state from foreign aggression. For even if the state is unjust, it's their state, not ours. We have no standing to decide what their state should be. We do not happen to be engaged full time, as they are, in the national historical project of creating it. All the injustices, therefore, which do justify a domestic revolution, do not always justify a foreign intervention. Following Mill, Walzer says that domestic revolutions need to be left to domestic citizens. Foreign interventions to achieve a domestic revolution are likely over the long run to be ineffective and cause more harm than they eliminate. It is for these reasons that we should want to respect locally negotiated amnesties even when perpetrators of crimes are known, as in South Africa or El Salvador. The amnesty can represent the price of peace or the difficulty of finding local clean hands.

Fourth, the necessary 'dirty hands' of violent means often become 'dangerous hands' in international interventions. International history is rife with interventions justified by high-sounding principles – ending the slave trade or suttee or introducing law and order and civilized behaviour – turning into self-serving, imperialist 'rescues' in which the intervener stays to profit and control. Requiring that the intervener be impartial, looking for something more than a unilateral decision and respecting the multilateral processes of international law are thus important procedural considerations in weighing the justice of an intervention.

Fifth, interventions can violate the principles of proportionality and last resort. Villages should not be destroyed in order to be saved and negotiation should be tried before dictatorial means are adopted.

Indirect reasons for non-intervention, those bearing on other valued ends, have also been important constraints. Interventions foster militarism and expend resources needed for other national and international goals. But key among the indirect considerations are the rules of international law among sovereign civilized states prohibiting intervention and the laws embodying the value of co-ordination and consensual legitimacy. Rules, any rules, have a value in themselves by helping to avoid unintended clashes and their consequences to human life. They serve as focal points for co-ordination – rules of the road, such as 'drive on the right'. Without some rule, unsought strife would ensue. International laws, moreover, were painstakingly achieved compromises among diverse moralities. The mere process of achieving consent made them legitimate. They were agreed upon and *pacta sunt servanda* (Nardin, 1983; Franck, 1995).

Intervention

> [N]ever forget if we can do this here, and if we can then say to the people of the world, whether you live in Africa, or Central Europe, or any other place, if somebody comes after innocent civilians and tries to kill them en masse because of their race, their ethnic background, or their religion, and it's within our power to stop it, we will stop it.
>
> President Bill Clinton, addressing KFOR troops, 22 June 1999 (Clinton, 1999)

Liberal arguments supporting intervention fall into various camps. Some liberals, strong cosmopolitans, hold that the rights of cosmopolitan freedom are valuable for all people. Any violation of them should be resisted wherever it occurs, provided that we can do so without causing more harm than we seek to avoid (Luban, 1980; Arkes, 1986). But others take more seriously the full range of Kantian and Millian grounds for non-intervention. Some give reasons to override the non-intervention principle, others to disregard the principle. In the first, the principles in favour of non-intervention still hold, but other considerations seem more important. In the second, the principles do not apply to the particular case.

J. S. Mill argued that there were three good reasons to *override* what should be the usual prohibition against intervention.

In an internationalized civil war such as that waged between Protestantism and Catholicism in the sixteenth century, or liberalism and despotism in Mill's own time, non-intervention can neglect vital transnational sources of national security. If each group truly aligns with its fellows overseas irrespective of inter-state borders and if others are intervening in support of their faction, then not intervening in support of yours is dangerous. While this argument is logical on its face, its historical accuracy is questionable. Even in the polarizing religious wars of the sixteenth and seventeenth centuries, one of Elizabeth I's best admirals was a Catholic, and France under Cardinal Richelieu wisely aligned with the Protestant principalities that would support her.

Second, following a just war, the victor, rather than halting his armed forces at the restored border, can intervene to remove a 'perpetual' or a standing 'menace' to peace, whether a person or a regime. Mill's reference was the sending of Napoleon to Elba (and then, as if to prove the point, further away, to St Helena). Reconstruction in the US South drew inspiration from these considerations. In our time, the reference is

'de-nazification' in Germany following the Second World War and the breaking up of the *zaibatsu* in Japan.

Most pertinently for today's debates on intervention, Mill argues that some civil wars become so protracted, that a common sense of sympathy for the suffering of the non-combatant population calls for an outside intervention to halt the fighting in order to see if some negotiated solution might be achieved under the aegis of foreign arms. Mill here cites the partial success of outsiders who halted and helped settle the protracted mid-century Portuguese civil war and the Greek–Turkish conflict. Greece was thus separated from Turkey and Belgium from Holland in 1830 following the forceful mediation of two liberal statesmen, Palmerston and Guizot. Later impartial mediation imposed power-sharing reconciliation on Portugal in the 1850s, which produced two generations of peace among the contesting factions under the rule of King Pedro.

There are other injustices that justify us in *disregarding* the prohibition against intervention. Sometimes the national self-determination that non-intervention is designed to protect is so clearly undermined by the domestic oppression and suffering that borders permit that non-intervention is not relevant. In these circumstances, the local government in effect loses its claim to singular national authenticity. Building on Mill's classic essay, Michael Walzer offers us three cases where an intervention serves the underlying purposes that non-intervention was designed to uphold (Walzer, 1977).

The first is when too many nations contest one piece of territory. When an imperial government opposes the independence of a subordinate nation or when there are two distinct peoples, one attempting to crush the other, then national self-determination cannot be a reason to shun intervention. What is missing is the 'one' nation. Here foreigners can intervene to help the liberation of the oppressed people, once that people has demonstrated through its own 'arduous struggle' that it truly is another nation. Then decolonization is the principle that should rule, allowing a people to form its own destiny. One model of this might be the American Revolution against Britain; another in Mill's time was the 1848–9 Hungarian rebellion against Austria; and in our time the many anti-colonial movements in Africa and Asia that quickly won recognition and, in a few cases, support from the international community.

The second instance in which the principle against intervention should be disregarded is counter-intervention in a civil war. When conflicting factions of one people are struggling to define what sort of society and government should rule, only that struggle should decide the outcomes, not foreigners. But when an external power intervenes on behalf of one of the participants in a civil war, then another foreign power can counter-intervene to balance the first intervention. This second intervention serves the purposes of self-determination, which the first intervention sought to undermine. Even if, Mill argued, the Hungarian rebellion were not clearly a national rebellion against 'a foreign yoke', it was clearly the case that Russia should not have intervened to assist Austria in its suppression. By doing so, Moscow gave others a right to counter-intervene.

Third, one can intervene for humanitarian purposes – to halt what appears to be a gross violation of the rights to survival of a population. When we see a pattern of massacres or of genocide, the institutionalization of slavery – violations that 'shock the conscience of mankind' – one has good ground to question whether there is any national connection between the population and the state that is so brutally oppressing

it. Under those circumstances, outsiders may intervene. But the intervener should have a morally defensible motive and share the purpose of ending the slaughter and establishing a self-determining people (self-serving interventions promote imperialism). Furthermore, interveners should act only as a 'last resort', after exploring peaceful resolution. They should then act only when it is clear that they will save more lives than the intervention itself will almost inevitably wind up costing, and even then with minimum necessary force. It makes no moral sense to rescue a village and start World War Three or destroy a village in order to save it. Michael Walzer has suggested that the Indian invasion of East Pakistan in 1971, designed to save the people of what became Bangladesh from the massacre that was being inflicted upon them by their own government (headquartered in West Pakistan), is a case of legitimate humanitarian intervention. It allowed the people of East Pakistan to survive and form their own state.

Today, Mill's most controversial case would be benign colonialism. His principles of non-intervention only hold among 'civilized' nations. 'Uncivilized' peoples, among whom Mill dumps most of Africa, Asia and Latin America, are not fit for the principle of non-intervention. Like Oude (in India), they suffer four debilitating infirmities – despotism, anarchy, amoral presentism and familism – that make them incapable of self-determination. The people are imposed upon by a 'despot . . . so oppressive and extortionate as to devastate the country'. Despotism long endured has produced 'such a state of nerveless imbecility that everyone subject to their will, who had not the means of defending himself by his own armed followers, was the prey of anybody who had a band of ruffians in his pay' ([1859] 1973). The people as a result deteriorate into amoral relations in which the present overwhelms the future and no contracts can be relied upon. Moral duties extend no further than the family; national or civic identity is altogether absent.

In these circumstances, Mill claims, benign colonialism is best for the population. Normal relations cannot be maintained in such an anarchic and lawless environment. It is important to note that Mill advocates neither exploitation nor racialist domination. He applies the same reasoning to once primitive northern Europeans who benefited from the imperial rule imposed by civilized Romans. The duties of paternal care, moreover, are real, precluding oppression and exploitation and requiring care and education designed to one day fit the colonized people for independent national existence. Nonetheless, the argument also rests on (wildly distorted) readings of the history and culture of Africa and Asia and Latin America. Anarchy and despotic oppression did afflict many of the peoples in these regions, but ancient cultures embodying deep senses of social obligation made nonsense of presentism and familism.

Shorn of its cultural 'Orientalism', Mill's argument for trusteeship addresses one serious gap in our strategies of humanitarian assistance: the devastations that cannot be readily redressed by a quick intervention designed to liberate an oppressed people from the clutches of foreign oppression or a domestic despot. But how does one prevent benign trusteeship from becoming malign imperialism, particularly when one recalls the flowery words and humanitarian intentions that accompanied the conquerors of Africa? How far is it from the Anti-Slavery Campaign and the Aborigine Rights Protection Society to King Leopold's Congo and Joseph Conrad's 'Heart of Darkness'?

The New Multilateral Substitution

> Our job is to intervene: to prevent conflict where we can, to put a stop to it when it has broken out, or – when neither of those things is possible – at least to contain it and prevent it from spreading.
>
> Kofi Annan, 'Reflections on Intervention', 1999

Mill objected to intervention because it was, first, inauthentic, substituting the decisions on self-determination of foreigners for decisions that should be made by locals, and, second, ineffective, inviting civil war and a return to oppression in the wake of well-motivated interventions. Moreover, third, when national self-determination is overridden for direct and indirect reasons, fair observers wonder whether the decisions are equitable across cases and made in a representative fashion. The new multilateral substitution addresses all these concerns, though far from perfectly.

Developments in the 1990s have responded to Millian concerns and contributed to a new sense of when and how to intervene. The first is a revived role for international multilateral authorization; the second is a new set of multilateral peacekeeping strategies that mix consent and coercion; and the third is multilateral representation. The three are connected. The second would not be seen as legitimate or, in fact, be effective without genuine multilateral authorization. The new authorization for multilateral intervention would not be tolerated as legitimate without global representation and unless it could be done less intrusively and with better effect on long-run stability and human rights than the usual outcomes of traditional unilateral interventions.

First, multilateral authorization substitutes for national consent. In the early 1990s, with the end of the Cold War, the agenda for multilateral as opposed to solely national peace and security rapidly expanded. At the request of the UN Security Council Summit of January 1992, the Secretary-General prepared the conceptual foundations of an ambitious UN role in peace and security in both international and domestic disputes (in his seminal report *An Agenda for Peace,* 1992).

At the same time, the revived Security Council both reaffirmed, after years of Cold War neglect, the UN Charter's Article 2(7) principle of non-intervention and expanded the operational meaning of 2(7)'s authority to override domestic sovereignty under Article 39 (Malone, 1998). The UN thus claimed a 'cleaner hands' monopoly on a broader definition of legitimate intervention. Although Article 39 prohibited UN authorizations of force other than as a response to threats or breaches of 'international' peace, the Genocide Convention and the record of condemnation of colonialism and apartheid opened a legitimate basis for involvement in domestic conflict. The Security Council's practice thus broadened the traditional reasons for intervention, including aspects of domestic political oppression short of massacre and human suffering associated with economic misfeasance – the so-called 'failed states' and the *droit d'ingerence* (Damrosch, 1993; Helman and Ratner, 1992–3; Mortimer, 1998) that brought the UN into Somalia and Bosnia. Indeed, 'threat to the peace . . .' etc. came to mean severe domestic violations of human rights, civil wars and humanitarian emergencies – and, almost, whatever a Security Council majority (absent a Permanent Member veto) said it was (Goodrich, 1969).

These developments had roots in the striking changes in the international system that emerged at the end of the Cold War. A new spirit of multilateral cooperation from the USSR, beginning with President Gorbachev's reforms, met a new spirit of tolerance from the United States. Together, the two former adversaries broke the forty-year gridlock in the UN Security Council. Post-Cold War cooperation meant that the Security Council was now functioning as the global guardian of peace and security. The Security Council had now become what it was supposed to have been since 1945 – the continuation, incorporated in the design of the UN Charter, of the Second World War Grand Alliance. At the same time, there also emerged an ideological community of democratic values that gave specific content to the cooperative initiatives of these years. The Vienna Conference on Human Rights (1993) and President Gorbachev's plea before the General Assembly for 'Global Human Values' signified that human rights were no longer merely a Western, but rather a global principle of good governance (UN, 1993). Sovereignty was redefined to incorporate a global interest in human rights protection. A newly functioning United Nations, moreover, was seen to be a legitimate agent to decide when sovereignty was and was not violated.

Regions differed on sovereignty. The Association of Southeast Asian nations (ASEAN) remained a bastion of strict sovereignty; non-intervention is the norm. The Organization of African Unity (OAU), on the other hand, defined standards of (1990) 'good governance' that included democracy and declared (3 July 1993) that internal disputes are matters of regional concern; and, in 2006, the African Union, the OAU successor, declared that Sudan's sovereignty should not stand in the way of the deployment of a major UN peacekeeping force in Darfur (BBC, 16 January 2006). Strikingly, the OAS (in Resolution 1080 and in the 'Santiago Commitment of 1991') declared coups against democracy illegitimate and adopted economic sanctions against coups in Haiti and Peru. The European Union makes democracy an element in the criteria it demands for consideration in membership.

In an important recent report that completes the extension of responsibility from national to global agency, the International Commission on Intervention and State Sovereignty has called upon the Security Council to recognize 'a responsibility to protect' (International Commission on Intervention and State Sovereignty, 2001). States of course have the first responsibility to protect the basic rights and welfare of their citizens, but if they should fail to do so through lack of will or capacity, the responsibility should devolve, the Commission argues, onto the international community, with the Security Council as its agent. Authentic consent, the Commission claims, now has two venues, the national and the global, and citizens have two equally valid protectors, national as first resort and global as second.

However, secondly, cleaner hands need not mean better hands. J. S. Mill had convincingly argued that even well-meaning interventions were likely to produce harm because they would not reflect the authentic consent of the populations that were being rescued and because post-intervention regimes would not be self-sustaining. Contemporary strategic peace building addresses some of these concerns (Doyle and Sambanis, 2000).

Multilateral peacebuilding in the wake of a civil war or humanitarian crisis is different from occupation or colonialism. It either rests upon consent of the key domestic parties or it is a multilateral rescue of a country that has experienced a humanitarian

crisis, as did for example Somalia, Bosnia or East Timor. It is an occupation that is designed to promote human rights and local self-determination, devoid of the controlling national interest of any particular occupier.

There have been many successes in establishing self-sustaining self-government: Namibia, El Salvador, Cambodia, Mozambique, East Timor. By ‘success’, I mean an end to large-scale civil war (<1000 battle deaths) and something very modest on the scale of democratic rule– that is, some degree of participation, a national election, but not necessarily a resolution of all the other problems that we know are associated with early democracy. There have also been equally striking failures to transfer democratic rule, including Rwanda, Bosnia, Angola, Liberia and Somalia.

The international community is beginning to learn the key factors in success. They appear to be twofold:

1 *Consent through a comprehensive, negotiated peace settlement*. A genuine, comprehensive, negotiated agreement, bringing all the relevant players together to negotiate a future – not just a truce, but envisioning a future form of rule – seems to make a difference. The ‘occupation’ is consent-based even when extensive authority has been transferred to the UN, as in Cambodia and Eastern Slavonia (Croatia). When the UN enters without consent, as in Bosnia or Somalia, or with heavily coerced consent, as NATO did in Bosnia after Dayton, achieving a successful participatory peace is much more difficult. It is not impossible: the peace in East Timor and between East Timor and Indonesia is still holding, but only because of exceptional investment in the second factor, below.
2 *A major international investment of peacebuilding resources*. Multidimensional peacebuilding on the cheap is a prescription for failure. According to the studies that Nicholas Sambanis and I have done about resolving civil wars, one needs to have as much international capacity as is needed to counterbalance the local level of hostility and the local level of poverty (local capacity). The more the ‘local hostility’ (measured by deaths, refugee displacements and the stronger, more numerous and hostile the factions) and the less the ‘local capacity’ (measured by government capacity and poverty); then the larger the ‘international capacity’ needs to be in terms of troops, money and authority in order to offset the first two and launch a process of peace building that restores order, builds new institutions and launches economic development. These can be seen as constituting three dimensions of a triangle, whose ‘area’ is the peace-building probability, the prospect for peace, and whose shape differs for each country.

If the international community engages in a conflict area such as was Rwanda in 1993–4 with a cheap operation designed merely to monitor and facilitate, when the extremists are determined and all factions are hostile and distrustful, one is asking for disaster, which of course is what occurred. But democratic peace building can be done effectively, and successes in Namibia, El Salvador, Cambodia, Mozambique and East Timor are the result of significant international efforts to help transfer democratic institutions to societies that are otherwise extremely problematic prospects for democratic rule. The keys were matching the right degree of international authority (from monitoring to quasi-sovereign trusteeship), military and civilian governance assistance

and economic redevelopment to the nature of the dispute in question – the amount of destruction sustained and deaths and displacements suffered.

Lastly, it was also important that the 'international community' had a newly legitimate, indeed virtually representative, means of expressing its collective will on an internationally impartial basis. The Security Council (SC) lays claim to being the equivalent of a 'global parliament' or 'global jury' (Franck, 1995; Farer, 2003), representing not merely the individual states of which it is composed but also a collective will and voice of the 'international community'. The SC includes five permanent members (USA, Russia, France, UK and China) and ten non-permanent, elected members, always including members from Asia, Africa and Latin America. Its authorization for an intervention requires the affirmative vote of nine states, including no negative votes from the five permanent members (the P5) and four positive votes from the ten elected countries. Such a vote would usually have to incorporate representatives of a majority of major races and religions. It would always include representatives of large and small countries, capitalist and socialist economies and democratic and non-democratic polities. If the mandated operation is UN directed and if troops and funding are required, many other troop-contributing states will be needed and they can say, 'No', in practice. The combination makes for a genuinely international, impartial intervention, and hence 'cleaner hands'. When the Security Council fails to act, as it has on notable occasions, we can sometimes hope for a democratic substitution. A coalition of democracies can step in to authorize an intervention while requiring *post facto* confirmation that holds states that have either unjustifiably intervened or unjustifiably opposed a justified intervention accountable for costs incurred (Buchanan and Keohane, 2004).

Conclusion

No one should argue that the ethical problems have been solved by multilateral authorization and new strategies of peace building (Bass, 2000; Walzer, 2004; Sriram, 2004; Feldman, 2004). They manifestly haven't. On too many occasions the international community as represented in the Security Council has chosen to authorize less than adequate missions – think of Rwanda and Srebrenica. Under pressure from a Security Council unwilling to expend resources and assign troops, General Dallaire, the force commander of the UN operation in Rwanda, was told to 'situate the estimate' – to design the mission to fit available resources rather to fit the challenges on the ground (Dallaire, 2003, p. 56). Elsewhere, the Security Council has refused to act or has taken measures clearly inadequate towards ending the humanitarian emergencies with which it has been confronted – Bosnia before 1995 and Darfur today come to mind.

Nonetheless, with the revival of the Security Council after the Cold War, multilateral authorization constrained many of the dangers of unilateral exploitation. With the slow build of lessons in what worked and what did not, multilateral intervention acquired the tools to avoid both political collapse and dependency. It learned, moreover, how to help build self-sustaining, self-determining peace. We should not, therefore, be judging these new forms of interventionism by the same tropes we have used to judge unilateral interventions. They can be different and, sometimes, justifiable.

References

Abiew, F. K.: *The Evolution of the Doctrine and Practice of Humanitarian Intervention* (The Hague: Kluwer Law International, 1999).

Annan, K.: 'Reflections on intervention', Ditchley Park, UK, 26 June 1998, in K. Annan, *The Question of Intervention* (United Nations, 1999a) p. 4.

—: 'Address to the UN General Assembly', United Nations, 20 September 1999b.

Arkes, H.: *First Things: An Inquiry into the First Principles of Morals and Justice* (Princeton, NJ: Princeton University Press, 1986).

Bass, G.: 'Jus post bellum', *Philosophy and Public Affairs*, 32, 4 (October 2004), 384–412.

Beitz, C.: 'The Regan doctrine in Nicaragua', in *Problems of International Justice*, ed. S. Luper-Foy (Boulder, Col.: Westview Press, 1988), pp. 182–95.

Boutros-Ghali, B.: *An Agenda for Peace* (United Nations, 1992).

—: *Supplement to An Agenda for Peace: Position Paper of the Secretary-General on the Occasion of the Fiftieth Anniversary of the United Nations*, A/50/60;S/1995/1, 3 January 1995, p. 4.

Buchanan, A. and Keohane, R.: 'Governing the preventive use of force', *Ethics and International Affairs*, 18, 1 (2004), 1–22.

Clinton, W.: 'Remarks by the President to the KFOR Troops', Skopje, 22 June 1999 (Washington, DC: Office of the White House Press Secretary, 1999).

Dallaire, R.: *Shake Hands with the Devil: The Failure of Humanity in Rwanda* (Toronto: Random House Canada, 2003).

Damrosch, L. F., ed.: *Enforcing Restraint: Collective Intervention in Internal Conflicts* (New York: Council on Foreign Relations Press, 1993).

Doyle, M. and Sambanis, N.: 'International peacebuilding: a theoretical and quantitative analysis', *American Political Science Review*, 94, 4 (December 2000), 778–801.

Ellis, A.: 'Utilitarianism and international ethics', in *Traditions of International Ethics*, ed. T. Nardin and D. Mapel (Cambridge: Cambridge University Press, 1992), pp. 158–79.

Farer, T.: 'Interpretation and change in the law of humanitarian intervention', in *Humanitarian Intervention: Ethical, Legal and Political Dimensions*, ed. J. L. Holzgrefe and R. Keohane (Cambridge: Cambridge University Press, 2003).

Farer, T. and Franck, T.: 'Interpretation and change in the law of humanitarian intervention', in *Humanitarian Intervention: Ethical, Legal and Political Dimension*, ed. J. L. Holzgrefe and R. Keohane (Cambridge: Cambridge University Press, 2003), p. 227.

Feldman, N.: *What We Owe Iraq* (Princeton, NJ: Princeton University Press, 2004).

Franck, T.: *Fairness in International Law and Institutions* (Oxford: Clarendon Press, 1995).

Garrett, S.: *Doing Good and Doing Well: An Examination of Humanitarian Intervention* (Westport: Praeger, 1999).

Goodrich, L. M., Hambro, E. and Simons, A.: *Charter of the United Nations* (New York: Columbia University Press, 1969).

Graham, G.: 'The justice of intervention', *Review of International Studies*, 13 (1987), 133–46.

Helman, G. and Ratner, S.: 'Saving failed states', *Foreign Policy*, 89 (Winter 1992–3), 3–20.

Holzgrefe, J. L.: 'The humanitarian intervention debate', in *Humanitarian Intervention: Ethical, Legal and Political Dimensions*, ed. J. L. Holzgrefe and R. Keohane (Cambridge: Cambridge University Press, 2003), pp. 15–52.

Holzgrefe, J. L. and Keohane, R., eds: *Humanitarian Intervention: Ethical, Legal and Political Dimensions* (Cambridge: Cambridge University Press, 2003).

Independent International Commission on State Sovereignty: *The Responsibility to Protect* (International Development Research Centre, Ottawa, 2001).

Kant, I.: ‘Perpetual peace’ (1795), in *Kant’s Political Writings*, ed. H. Reiss and trans. H. B. Nisbet (Cambridge: Cambridge University Press, 1970), pp. 93–130.

Luban, D.: ‘Just war and human rights’, *Philosophy and Public Affairs*, 9, 2 (Winter 1980), 160–81.

Malone, D.: *Decision-Making in the Security Council: The Case of Haiti, 1990–1997* (Oxford: Clarendon Press, 1998).

Mill, J. S.: ‘A few words on nonintervention’ (1859), in *Essays on Politics and Culture*, ed. G. Himmelfarb (Gloucester, Peter Smith, 1973), pp. 368–84.

Mortimer, E.: ‘Under what circumstances should the UN intervene militarily in a ‘domestic’ crisis?’, in *Peacemaking and Peacekeeping for the New Century*, ed. O. Otunnu and M. Doyle (Lanham, Md.: Rowman and Littlefield, 1998), pp. 111–14.

Nardin, T.: *Law, Morality, and the Relations of States* (Princeton, NJ: Princeton University Press, 1983).

Sriram, C.: *Confronting Past Human Rights Violation* (London: Taylor and Francis, 2004).

Teson, F.: *Humanitarian Intervention: An Inquiry Into Law and Morality* (Irvington-on-Hudson, NY: Transnational Publishers, 1997).

United Nations: *Vienna Declaration and Program of Action* (draft reference number: A/CONF. 157/23, 1993).

Vincent, J.: *Nonintervention and International Order* (Princeton, NJ: Princeton University Press, 1974).

Walzer, M.: *Just and Unjust Wars* (New York: Basic Books, 1977).

—: ‘The moral standing of states: a response to four critics’, in *International Ethics*, ed. C. Beitz (Princeton: Princeton University Press, 1985).

—: ‘The politics of rescue’, *Dissent*, 49 (Winter 1995), 35–41.

—: ‘Just and unjust occupations’, in *Arguing about War* (New Haven, Conn.: Yale University Press, 2004), pp. 162–8.

Chapter 49

The State

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Controversies over Defining the State

The state is a complex, multi-criteria concept. In the contemporary era it refers to:

1 A set of organized institutions with a level of connectedness or cohesion, justifying shorthand descriptions of their behaviour in 'unitary' terms.
2 Operating in a given spatial territory, inhabited by a substantial population organized as a distinct 'society'.
3 These institutions' 'socially accepted function is to define and enforce collectively binding decisions on the members of [that] society' (Jessop, 1990, p. 341).
4 Their existence creates a 'public' sphere differentiated from the realm of 'private' activity or decision making.

Each such state (ensemble of institutions) must also:

5 Claim sovereignty over all other social institutions and effectively monopolize the legitimate use of force within the given territory (Weber, 1948, p. 78).
6 Be able to define members and non-members of the society, and control entry to and exit from the territory.
7 Make strong ideological/ethical claims to be advancing the common interests or general will of members of the society.
8 Be accepted as legitimate by significant groups or elements in the society.
9 Command bureaucratic resources (Weber, 1968, pp. 212–26) so as to be able to collect taxation (Schumpeter, 1954) and order governmental affairs effectively, given prevailing transactions costs (Levi, 1988).
10 Substantially regulate societal activities by means of a legal apparatus, and government activities by means of a constitution.
11 Be recognized as a 'state' by other states.

Contemporary nation-states commonly meet all these criteria simultaneously. But historically, this complex governmental form evolved slowly and partially, with particular characteristics developing unevenly in different locales and becoming

generalized over long time periods. The processes of state formation have been strongly influenced by many factors – the transition from feudalism to capitalism, changes in military technology, wars, revolutions, imitative effects, geopolitical situations, the rise of nationalism and of liberal democracy, and the experience of communism, fascism and other forms of 'exceptional regimes' in industrialized countries. Within the defining characteristics set out above, there can be many different state variants, with contrasting institutional arrangements. Circumstances quite often arise where most defining characteristics are present but one or several features are missing or called in question – creating difficult cases where the attribution of statehood becomes problematic.

The multi-criteria nature of the concept, the tangled web of historically specific pathways of state development, and differences in state forms have all contributed to substantial theoretical difficulties in reaching any wide agreement about how to define 'the state'. As Walzer (1985, p. 4) remarked in another context: 'History displays a great variety of arrangements and ideologies. But the first impulse of the philosopher is to resist the displays of history, the world of appearances, and to search for some underlying unity.' There has been a marked tendency for theorists to fasten on to one or a few of the defining characteristics above, and either to ignore or de-emphasize others, downgrading them to the level of associated characteristics or corollaries of statehood. Alternatively, other authors try to identify a small subset of features which form the primary root of state power or character.

Rival definitions of the state have proliferated, but they can conveniently be grouped into two views. Philosophical approaches, the juridical literature influenced by Roman law, Marxist 'state theory' and evolutionary/systems theory approaches have generally adopted an 'organic' view of the state. Here the state is construed in terms of some moral purpose, human drive or social function which requires the coming into existence of a specialized sovereign body, operating in the ways characteristic of modern states – for example, separating out the exercise of ultimate political power from the lineage or characteristics of particular individuals (unlike earlier monarchies), and unifying political controls instead of retaining the multiple independent or interleaved centres of political autonomy found in feudal arrangements. All organic approaches try to establish the necessary quality of the (modern) state form, relaying on logical argument. Most work follows some form of 'derivationist' method where the multiple defining characteristics of the state are inferred from its necessary purposes or functions within a wider social theory or philosophical apparatus. Much of this literature, especially in Marxist-influenced work, seems to reify the state, creating a unitary social actor to which massive social influence is assigned, but whose precise identification or inner workings often remain obscure.

The alternative approach is a methodological individualist view of the state as a composite set of public institutions or of public officials, most commonly those at the central or national government levels alone, or alternatively of all designated governing organizations. This view predominates in pluralist political science, mainstream economics and historical sociology. It typically produces definitions of the state closer to 'trait theory' approaches, which seek to encompass or reorganize the tangled empirical corollaries of statehood.

The state has also been paired in numerous dichotomies with equally problematic 'opposite' terms. These contrasts attempt to clarify the fundamental core of stateness,

but are usually not exhaustive and hence only exacerbate definitional problems. Typical of such false dichotomies is 'the state' vs. 'the individual' contrast, which predominated in Anglo-American liberal thought from the end of the eighteenth century to the 1970s; 'the state' vs. 'civil society' contrast in Marx's work, and parallel distinctions in Hegelian-influenced approaches, feeding through into the blanker 'state-centred' vs. 'society-centred' explanations of some contemporary neo-elite and 'new institutional' theory; and the 'domestic' or 'welfare' state vs. the external or 'power state' contrast which has sustained the post-war split between political science and international relations. Each of these perspectives prioritizes some of the defining features listed above and de-emphasizes others. They point to different core elements of the state – the legal system for liberal approaches, the bureaucracy for neo-elite theory, the realm of 'high politics' for realist theory in international relations.

Finally, there has been acute controversy about whether the modern state form is a set of governmental arrangements generally applicable to industrialized countries, as all forms of liberal theory assert, or whether this state form is particular to the capitalist mode of production, as Marxist theory long claimed. The debate here was partly historical and partly counterfactual. Historically, while all participants can agree on the clear distinction between the modern state form and feudalism, other earlier historic forms of government, especially the Roman empire and Eastern empires, share significant characteristics with the modern form (such as an extended administrative apparatus, tax-raising abilities, use of law and maintenance of a standing army). Counterfactually, the claim of a distinctively capitalist state form rests on the potential existence of an alternative mode of production, socialism. Even within Marxism there was acute controversy about whether such a radically different system ever existed under communist regimes, or whether the state form realized there was distinct from that of Western countries, and if so in what ways. The possibility of an 'Asiatic mode of production', briefly hinted at by Marx and Engels as a way of characterizing some early forms of oriental empires marked by a strong societal guidance by apparently developed state institutions, united historical and counterfactual debates as a possible characterization of communist rule. With the collapse of the Soviet Union and its satellite regimes in Eastern Europe during 1989–92, and the changing form of communist rule in China, the identification of a socialist mode of production has apparently receded into the distant future, and the pathways for achieving such a transition have become almost completely indeterminate even for Western Marxists. The specificity of the modern state to a capitalist mode of production can still be maintained theoretically. But it has become *de facto* the general state form in the world as we know it.

Surveying these manifold disputes, some observers have sought refuge in the idea that 'the state' is an essentially contested concept, in Gallie's (1956) sense of a complex, multi-criteria idea, with a strong appraisive content, whose basic meaning and scope of application are strongly disputed by different schools of thought, in a way likely to prove irresolvable (e.g. Jessop, 1990, p. 340; for other political examples, see Connnolly, 1974, ch. 1). Problems in delineating 'the state' are also bound up closely with equally serious difficulties, such as defining a 'society'. But whether labelling a disputed concept 'essentially contested' is more than a dignified way of confessing deadlock seems unclear.

State and Society under Liberal Democracy

After a prolonged static period, the number of liberal democracies has again risen sharply – generating increased interest in the idea that modern social and economic development contains a logic which converges on this particular state form (Fukuyama, 1989; 1991). Yet the state's role in liberal democratic societies remains the central puzzle in contemporary state theory. Analysing the historical state of pre-democratic eras, or state intervention under contemporary authoritarian regimes, is relatively straightforward. Where political power is concentrated and controlled overtly or observably by other power centres – by wealth or military force or a secret police, for example – acute problems of maintaining legitimacy, of constraints on rulers from transactions costs, of achieving state rationality, etc. may all occur.

Characterizing state action and intervention is much more difficult, much more paradoxical, however, where a system of political decision making both formally vests ultimate control in the dispersed votes of citizens, and yet creates substantial power centres and institutions with significant degrees of autonomy, inertia, institutionalized dispositional biases, and so on. Similarly, the liberal democratic state claims unconstrained sovereignty over the social arrangements within its territory, yet binds itself formally with an apparatus of legalism and constitutionalism. And in practice the politically controlled and putatively sovereign liberal democratic state must interface with a capitalist economy and operate in a culture where money is effectively a 'dominant good', transmutable into political power and social influence (Walzer, 1985, pp. 10–13), not just at national level but increasingly on a global scale.

Rival theories of the state and society have predictably reached different conclusions about how these contradictions are resolved (Alford and Friedland, 1985; Dunleavy and O'Leary, 1987). For classical pluralists the state in liberal democracy self-evidently plays an autonomous role:

> Governments [are] . . . organizations that have a sufficient monopoly of control to enforce an orderly settlement of disputes with other organizations in the [territorial] area . . . Whoever controls government usually has the *last word* on a question; whoever controls government can enforce decisions on other organizations in the area. (Dahl and Lindblom, 1953, p. 42)

> In the real world, governments in fact do almost everything which an organization conceivably can . . . Every government is the locus of ultimate power in its society, i.e. it can coerce all other groups into obeying its decisions, whereas they cannot similarly coerce it . . . Thus . . . the government is a particular and unique social agent. (Downs, 1957, pp. 11–12, 21–3)

Pluralists assert the separateness of the political sphere, and the effectiveness of the constitutionally and electorally enforced 'blocked exchanges' which inhibit the transferability of economic or social power into political influence or administrative control.

More recent neopluralist work acknowledges the strength of elite theory and neo-Marxist criticisms about the under-involvement of ordinary citizens and the

structurally privileged position of business in liberal democracy (Lindblom, 1977). But it defends the idea of state autonomy in new ways – specifically, arguments about the complexity of modern societies' specialization of labour. In Luhmann's (1979; 1982) 'autopoietic' approach, the political-administrative subsystem (like the legal, the economic or the cultural subsystems) is radically autonomous and inherently uncontrollable by any external dynamic, although it must constantly interface with other equally autonomous societal subsystems. This argument restates in an evolutionary/systems theory guise a classical pluralist theme, the separation of elites. Less functionalist neo-pluralists vest state autonomy in interactive policy networks, professional socialization and internalized values, specialized policy scrutiny mechanisms, planning machineries, varied governmental technologies and localized implementation systems – which recreate within the state apparatus the analogues to the decentralized 'discovery systems' of private markets.

The new right, by contrast, develop a strong theoretical analysis in which pluralist politics emerges as a source of pathology within the capitalist order, with escalating state intervention as the chief symptom. A decade of experience of governments strongly influenced by this pattern of thinking (notably under Thatcher and Reagan) has split the new right into two streams. A fatalist wing accepts that the current scale of government spending and employment are probably irremoveable by political action (Regan, 1986, pp. 424–5), but can nonetheless keep the faith with the initial theoretical analysis. By contrast, a 'heroic' wing insists that new right policy analysis will yet permit strong-willed leaders to push through a qualitative change in state–society relations (Savas, 1987; Pirie, 1988), implying that there is nothing inherent about state growth in liberal democracies. Exponents of the heroic model junked Hayek's imperative against coercing others, in favour of trying to bounce their societies away from welfare-state 'dependence' – envisaging that state cutbacks could force people to be free. By contrast, fatalists admit the political salience of distinctive kinds of vested interests within new right governments, the continuing strength of the political-business cycle, and the bidding up of voters' expectations implied in Laffer-style 'voodoo economics'.

If the experience of seeing their ideas partially implemented has fractured the new right's previously powerful fusion of deductive theory and practical policy analysis, it has apparently only encouraged a stasis in elite theory instrumentalist Marxist accounts. The defensive stances of liberal or social democratic parties in practical politics have been mirrored by the intellectual stagnation of left thinking about the state. American state-centred elite theories have stressed the autonomy of public officials against society-centred explanations, this time vesting the old pluralist separation of elites argument with a (faint) radical tinge (Nordlinger, 1981; Skocpol, 1985). Some European Marxists have redescribed the social and economic forces underlying economic stagnation and political conservatism as the collapse of a post-war Fordist system of mass production and mass consumption. In this view, the state is one among a complex of middle-range 'regulation' arrangements by means of which global capitalist economic imperatives are translated into social action, yet also differentiated across countries in ways which facilitate both social control and decentralized policy learning.

Feminist thinking about the state has generated volumes of criticism of existing approaches, without yet culminating in any distinctive theory of the state. Radical feminist analysis has apparently retreated before the task of producing a gender-based

analysis of state institutions and operations into a defensive position – poring over legal judgments for indications of the remaining gender-bias of courts, laws and welfare rules, the continuing reverberations of a historic or ideological 'sexual contract' (Pateman, 1988). The apparent 'neutrality' of the contemporary state then has to be explained away in terms reminiscent of Marxist accounts of why liberal democratic politics is *prima facie* dominated by non-class issues:

> Women are oppressed socially, prior to law, without express state acts, often in intimate contexts. The negative [i.e. liberal] state cannot address their situation in any but an equal society – the one in which it is needed least . . . The Weberian monopoly on the means of legitimate coercion, thought to distinguish the state as an entity, actually describes the power of men over women in the home, in the bedroom, on the job, in the street, throughout social life. It is difficult, actually, to find a place it does not circumscribe and describe. Men are sovereign in the way Austin describes law as sovereign: a person or group whose commands are habitually obeyed and who is not in the habit of obeying anyone else. Men are the group that has had the authority to make law, embodying H. L. A. Hart's 'rule of recognition' that, in his conception, makes law authoritative. (MacKinnon, 1989, pp. 165, 169–70)

Reasoning on these lines only dissolves the state as an object of enquiry. This tendency may explain why there is as yet no viable feminist theory of the state – despite the potentially powerful apparatus of concepts assembled by feminist thought (e.g. patriarchalism, exploitation, false consciousness, phallocentrism, public/private spheres, etc.), and despite the strong social, psychological and socio-biological bases for characterizing key aspects of state behaviour as gender-specific (e.g. warfare). A rather similar criticism could be made of green political theory, where distinctions between the state and societal influences are similarly blurred (Dobson, 1990).

Underlying the surface dissimilarities of pluralist, neopluralist, new right, elite theory and Marxist approaches to the state – indeed perhaps underlying any similar theory of the state – there are three structurally invariant images, which recur in different guises across diverse substantive theory (Dunleavy and O'Leary, 1987, ch. 7). The first is the state as a cipher, a mechanism for condensing and transmitting external influences. What gets communicated ranges from voters' demands and diverse interest group pressures under pluralism, to the dominant pressure of capital under Marxism. In its external affairs with other countries, the cipher state acts directly as a vehicle for domestically dominant social interests.

The second image is the state as guardian, an active autonomous institutional influence, whose interventions always re-weight societal outcomes towards long-run ends, and away from immediate social pressures. In pluralist thought state intervention is adjusted by electoral competition towards groups otherwise lacking social clout; in neopluralism the guardian state is a partly insulated, professionalized mechanism for delivering citizens' desired outcomes without direct citizen control and in a sustainable manner; and for some neo-Marxists, state autonomy in policy formation is an indispensable foundation for the long-run functionality of an internally complex capitalist mode of production. In international policy arenas the guardian state pursues an autonomously formulated and strongly ideological conception of the national interest. Although domestic public opinion or major social groups are also normally supportive,

this congruence primarily reflects state elites' ability to persuade voters or interests to view external affairs as they do, rather than societal interests effectively formulating foreign or defence policies.

The third image is of the state as a partisan actor, not situated above and qualitatively apart from civil society, but intermeshed within it by a complex of relations, of resource interchanges and of bargains. For pluralists taking this view, the state is a broker, able to coerce other social actors if need be, but unable to coerce all or many simultaneously; and staffed by personnel with distinct if still constrained organizational interests. In the Marxist variant, the state is seen as arbiter of a relatively balanced class struggle, able to implement crisis management strategies fostering distinctive state or national interests. In external affairs the partisan state pursues the narrowly sectional interests of key parts of the state apparatus (such as the defence sector, the intelligence community, the diplomatic/foreign service, and politicians anxious to demonstrate symbolic 'strong leadership') in tandem with other social interests (such as defence contractors and their employees, corporations with a stake in different external policies, sections of public opinion with strong commitments on foreign policy issues and the mass media). Foreign and defence policies reflect these shifting interest coalitions, but with intra-state influences always important.

The Contemporary State and the International System

All three images of the liberal democratic state explain international policy primarily in terms of domestic imperatives and power structures. Yet in practice the external relations of states with other states are strongly shaped by international system influences, while domestic policies also do not operate in a vacuum. Cross-national policy emulation, cumulative policy learning and the emergence of strong pressures for international policy standardization or joint policy making are no longer isolated policy constraints – their dynamics lie at the heart of policy change in such core domestic areas as the welfare state, tariff and taxation policies, law and order, environmental regulation and micro-economic development.

Conceptually, the 'sovereign' state operates in a system of states, each sharing the same properties. Empirically, however, there are major variations across countries in the autonomous capabilities of their sets of governing institutions. Large, medium and small states have quite different levels of control over their own military and foreign policy decision making. Really large states, like the United States for much of the post-war period, have a vastly greater scope for intervention in other countries' affairs. 'Normal' constraints on the ambitions of large state elites can be so reduced that their conception of the national interest expands exponentially, selectively overriding or undermining the recognition of smaller states' autonomy, notwithstanding liberal democracies' constitutional and legal commitments to this ideal (Krasner, 1978, p. 340). Another potent influence undermining constraints on the liberal democratic and authoritarian superpowers was the pattern of official discourse which developed in the United States and the Soviet Union (and to a much lesser degree in Britain and France) during the hottest phases of the Cold War (Rapoport, 1968). By first stressing internal state unity as the condition for 'winning' a nuclear exchange and later the unreasoning external use of

unlimited force (entailed by the Mutually Assured Destruction doctrine), 'neo-Clausewitzian' elite attitudes and defence policies pictured the world not as an international system of states but simply as an arena of superpower action.

At the other end of the scale, small nation-states operate as very weak centres of decision in an international environment of strong influences – especially where their geopolitical situation places them adjacent to larger and stronger neighbours. In past turbulent conditions, such as those prevailing in Europe as recently as 1938–9 (Watt, 1990), small states' existence was completely dependent upon their large neighbours continuing to recognize them as sovereign entities. Small states' abilities to muster internal legitimacy or command a domestic monopoly over the use of force were easily undermined where this recognition was withdrawn. Since 1945, the creation of the United Nations and the freezing of nation-state status within an historically unprecedented international legal framework have both strengthened the position of small countries. But these additional safeguards of statehood easily collapse where internal political strife or civil war emerges, and external states can intervene to back favoured factions; where inter-country disputes involve ethnic minorities in one country wanting to secede to another; or where territorial disputes are blurred by historical or legal complications. So in practice, small states' ability to survive external aggression still rests as much as in the past on their ability to engage allies in their cause – by controlling strategic resources, occupying a pivotal geopolitical position, or commanding strong ideological arguments which sway international opinion.

States which are neither superpowers nor exceptionally small or domestically vulnerable operate in the international system in much the way that legal models suggest. Their dealings with other states are governed both by instrumental motives (such as reciprocity or prudential calculations) and by respect for international law and international treaty obligations. In liberal democracies compliance with international obligations is necessary for government legitimacy as much as it is a prerequisite for maintaining effective external relations.

In the contemporary era the Cold War has ended, curbing superpower abilities to override constraints on their external behaviour. The collapse of the USSR into its component republics (some with continuing internal tensions), the re-emergence of diverse states in Eastern Europe and the messy fragmentation of Yugoslavia have created the first substantial increase in the number of nation-states since the 1960s. And small states' position has been progressively strengthened by several influences – especially the spread of liberal democracy, the re-emergence of the United Nations as a potent force for peacekeeping, and a secular increase in the global legitimacy of international law constraints. As a result, the most fundamental challenge to prevailing ideas of statehood is presented by the emergence of new forms of international policy standardization. In addition to the UN's peacekeeping role, the post-war period has seen a rapid accretion of internationally binding policy making around such increasingly global institutions as GATT (General Agreement on Tariffs and Trade), the International Monetary Fund and the World Bank. A host of single-subject bodies now seek to handle problems of collective action (such as mass starvation crises, or airport security and counter-terrorism) and 'common pool goods' (such as international whaling, or the emission of CFCs and other ozone-depleting chemicals). In addition, subscription to international standards (such as the UN Declaration of Human Rights) has generally

increased, and regionally based mechanisms for ensuring practical compliance with similar schemes have emerged in some parts of the world (as with the European Court on Human Rights).

In Western Europe the uneven development of the European Community over nearly four decades poses perhaps the most fundamental challenge to the nationally based conception of statehood. The EC has long ceased to be simply a confederation of nation-states, with substantial progress towards a common monetary system, and a common foreign policy (with an emergent defence component handled by the West European Union), coming on top of a single labour market (with joint immigration controls), a complete tariff union (with extended action against all forms of quasi-protection of domestic markets), and substantial standardization of social policy and environmental regulation. Yet neither is the EC a state (or even a proto-state) in the sense defined at the start of this paper. EC decision-making procedures are overtly coalitional and non-unitary, and its central organs have no control over the domestic use of force in any member country. Progress towards greater political union may somewhat qualify these exceptions compared with the current situation, that is, it may make the EC as a whole begin to resemble more closely a form of federal super-state at a regional bloc level. But it is highly unlikely to completely remove the difficulties in analysing the EC.

The EC's development also throws into doubt the status of its component nation-states. Some authors in the Marxist tradition have developed accounts of 'the regional state' or 'the local state', which differ primarily from the initial definition in four respects – their territory includes only a part of a wider 'society' (criterion 2); they do not claim exclusive sovereignty within their territory, nor can they command a monopoly of legitimate force, since the national state's writ also runs there (criterion 5); regional or local 'states' cannot define their membership or (formally) control entry and exit by national citizens into their territory (criterion 6); and the existence of regional or local 'states' depends not on recognition by other states but on a national constitution (criterion 11). The EC member countries similarly may begin to regulate only sections of a wider European 'society' (a trend already pronounced in the area around northern France, northern Germany and the Benelux countries). They will retain a domestic monopoly of force, but no longer claim the sweeping sovereignty of past eras. The EC may in future define citizenship collectively, and what national specification remains may be of declining significance. Finally, member countries' positions are already partly defined by collective EC treaties and institutions, while the EC is already recognized as a 'state' by other non-EC states.

All these trends seem to imply that an important change of state form is in prospect, at least for relatively stable and prosperous liberal democracies. The traditional 'high politics' core of the state remains, with its twin focus on securing order and social coherence internally and on the command of strategic resources externally. But the salience of these policy areas is declining as meaningful levels of collective security become feasible and the system of states solidifies into an apparently permanent form. At the same time the internal and external dynamics which fuelled the expansion of the welfare state in the post-war era have slowed. Yet persistent ethnic tensions, a new emphasis upon 'subsidiarity' principles, and changes in governmental technologies towards decentralization all seem likely to ensure the further development of sub-national governments. The 'steady state' welfare systems now in prospect may

generate less partisan controversy and require less distinctively national management than in the past. Finally, there has been and looks certain to continue to be a progressive drift of decision-making authority from national to transnational institutions, with more globalized policy making, and with regional blocs becoming the focus of economic and social policy decision making. Very large nation-states (like the United States and Japan), or land-based empires (like India and China), may operate in this environment on multiple levels, for a time. Many nation-states in still industrializing countries may remain on the fringes of this emergent system for a time and with progressively more remote claims to be exercising national sovereignty. But these exceptions should not disguise the continuing pressures acting on the nation-state from above, due to the globalization of capital, and from below, due to technological shifts and the continuing salience of ethnicity. The age of the unitary nation-state commanding strategic resources and acting in a realist mode in international relations may yet prove to be a transitory period in human affairs.

References

Alford, R. and Friedland, R.: *Powers of Theory: Capitalism, the State and Democracy* (Cambridge: Cambridge University Press, 1985).

Connolly, W.: *The Terms of Political Discourse* (Lexington, Mass.: Heath, 1974).

Dahl, R. and Lindblom, C.: *Politics, Economics and Welfare* (New York: Harper, 1953).

Dobson, A.: *Green Political Thought* (London: Unwin Hyman, 1990).

Downs, A.: *Economic Theory of Democracy* (New York: Harper & Row, 1957).

Dunleavy, P. and O'Leary, B.: *Theories of the State: The Politics of Liberal Democracy* (London: Macmillan, 1987).

Fukuyama, F.: 'The end of history?', *The National Interest*, Summer, 1989.

—: 'Liberal democracy as a global phenomenon', *PS: Political Science and Politics*, 24, (1991), 659–64.

Gallie W.: 'Essentially contested concepts', *Proceedings of the Aristotelian Society*, 56 (1956), 167–93.

Jessop, R.: *The Capitalist State* (Oxford: Martin Robertson, 1982).

—: *State Theory: Putting Capitalist States in Their Place* (Cambridge: Polity, 1990).

Krasner, S.: *Defending the National Interest* (Princeton, NJ: Princeton University Press, 1978).

—: 'Approaches to the state: alternative conceptions and historical dynamics', *Comparative Politics*, 16, 2 (1984), 223–46.

Levi, M.: *Of Rule and Revenue* (Berkeley: University of California Press, 1988).

Lindblom, C. E.: *Politics and Markets: The World's Political Economic Systems* (New York: Basic Books, 1977).

Luhmann, N.: *Trust and Power* (Chichester: Wiley, 1979).

—: *The Differentiation of Society* (New York: Columbia University Press, 1982).

MacKinnon, C.: *Towards a Feminist Theory of the State* (Cambridge, Mass.: Harvard University Press, 1989).

Nordlinger, E.: *The Autonomy of the Democratic State* (Cambridge, Mass.: Harvard University Press, 1981).

O'Leary, B.: *The Asiatic Mode of Production* (Cambridge: Cambridge University Press, 1990).

Pateman, C.: *The Sexual Contract* (Cambridge: Polity, 1988).

Pirie, M.: *Micro-Politics* (London: Wildwood House, 1988).

Rapoport, A.: Introduction to Clausewitz's *On War* (Harmondsworth: Penguin Books, 1968).
Regan, D.: *The Triumph of Politics* (New York: Avon, 1986).
Savas, E.: *Privatization: The Key to Better Government* (Chatham House, NJ: Chatham House, 1987).
Schumpeter, J. L.: 'Crisis of the tax state', *International Economic Papers*, 4 (1954), 5–38.
Skocpol, T.: 'Bringing the state back in', in *Bringing the State Back In*, ed. P. Evans, D. Rueschemeyer and T. Skocpol (Cambridge: Cambridge University Press, 1985).
Walzer, M.: *Spheres of Justice: A Defence of Pluralism and Equality* (Oxford: Blackwell, 1985).
Watt, D. C.: *How War Came* (London: Heinemann, 1990).
Weber, M.: 'Politics as a vocation', in M. Weber, *Essays from Max Weber*, trans. H. Gerth and C. W. Mills (London: Routledge & Kegan Paul, 1948).
—: *Economy and Society* (New York: Bedminster Press, 1968).

Chapter 50

States of Emergency

DAVID DYZENHAUS

The idea of a state of emergency connotes more than that there is an exceptional political situation which requires an urgent response, one different in nature from normal methods of dealing with political problems. The 'state' part of the idea indicates the legally performative, illocutionary nature of the declaration of a state of emergency. A state of emergency is created by the properly formulated speech act of an official with authority to do so. Officials always claim that the declaration responds accurately to the reality of an exceptional situation. But the declaration is supposed to create a new normative order in which governments may act in ways that in ordinary times would be illegal. Thus the idea of a state of emergency is a legal, even constitutional idea. As such, it is strange to the point of paradox.

In declaring a state of emergency, a government claims legal authority to operate outside of the law, if one understands law to mean the rule of law as it applies in ordinary situations. Law is used to suspend its own operation. Legal authority – an idea which presupposes legal limits on what its delegates may do – is invoked to suspend the limits on the delegates.

One can try to remove the paradoxical air of law being used to suspend its own operation by relying on a distinction between rule by law and the rule of law. If rule by law is rule in accordance with the criteria for the validity of law in a particular legal order, and the rule of law is rule in accordance with principles of legality, there might seem nothing paradoxical about the fact that rule by law is used to suspend the operation of the rule of law. For example, a statute strips detainees of rights to an independent adjudication of the merits of their detention orders and of access to the judicial review of whatever decisions have been made about detention. Yet there is arguably an intimate connection between rule by law and the rule of law and human rights.

However, if the rule of law can play no real role during a state of emergency, concerns arise about sham rule of law. Efforts to impose the rule of law where its writ cannot run will create a veneer of legality over executive action that is necessarily arbitrary. The sham will bring the rule of law into disrepute, perhaps interfering with its operation in areas unaffected by the emergency, and perhaps persisting once the emergency is over (Gross, 2003; 2005).

One has to take into account that while judges are usually regarded as the guardians of the rule of law, in times of emergency they have a dismal record – they tend to defer

submissively to executive judgement. One could conclude that judges lose their nerve. But if the problem is that in an emergency judges cannot fulfil their normal guardianship role because of the exception to the normal order, their record reflects a dismal fact rather than loss of nerve. Nevertheless, judges may play a counterproductive role if they find themselves forced to declare that executive action is legal when in fact it is arbitrary. And a distinguished legal historian suggests that in wartime emergencies judges seem concerned only with preserving a claim that they still have a central role to play in legal order, and so are content to let form triumph over substance (Simpson, 1992, p. 363). Judges give the executive the imprimatur of legality as long as they can assert that they wield the stamp.

Another way of resolving the paradox is to argue that the authority to use law to suspend the law is not legal but political. As least since John Locke discussed the prerogative, philosophers have claimed that the authority to declare a state of emergency resides in the political sovereign (Locke, [1690] 1988, p. 375). That claim presupposes that sovereignty is a pre-legal idea: the sovereign's authority is not ultimately constituted by law. The sovereign can choose to wield political power through law. But there is still a further choice – whether to make rule by law conform to the rule of law.

Against this position are figures as different as Hans Kelsen and A. V. Dicey. Kelsen's (1994) Identity Thesis, forged during the stress of late Weimar, asserts that the sovereign cannot act outside of the law since the sovereign is fully constituted by law. Dicey claimed that the British Parliament, despite its position of supremacy in a common law legal order, lacked constitutional authority to declare a state of emergency akin to the French state of siege, in which the authority ordinarily vested in the civil power passes entirely to the army. The sovereign as a sovereign must always act in a 'spirit of legality' ([1885] 1959, pp. 287–8, 412–13).

The Lockean position says that in a state of emergency no law can constrain the sovereign. The Kelsenian position says the sovereign must always act in accordance with the rule of law. Those positions represent the two ends of the continuum in political philosophy. Somewhere in the middle is the constitutional model, one which tries to exert legal controls on the sovereign, suitable to emergencies, and located in an entrenched constitution. However, as I will now show, the constitutional model is both unstable and not all that relevant to contemporary political practice.

In the leading study of the state of emergency in English, Clinton L. Rossiter concluded that '[n]o sacrifice is too great for our democracy, least of all the temporary sacrifice of democracy itself' (1948, p. 314). Crucial to his argument was the claim that the dictatorship necessary to respond to an emergency can be constitutional. He took his cue from the Roman dictatorship, one that was legally bestowed on a trusted individual whose task it was to 'restore normal times and government' and 'hand back this power to the regular authorities just as soon as its purposes had been fulfilled' (Rossiter, 1948, pp. 4–5). Rossiter was anxious to stress the importance of the qualifying adjective in the idea of constitutional dictatorship. What distinguishes it from fascist dictatorship is that it is 'temporary and self-destructive' and that the 'only reason for its existence is a serious crisis; . . . when the crisis goes, it goes' (Rossiter, 1948, p. 8).

This model has recently been revived by Bruce Ackerman (2004). Because Ackerman does not think that judges can do better than they have in the past at containing the executive during an emergency, he proposes a system of political incentives and

disincentives, a 'political economy' that will prevent abuse of emergency powers (Ackerman, 2004, p. 1031). His most ingenious device is the 'supramajoritarian escalator', the requirement that a declaration of a state of emergency requires legislative endorsement within a very short time, and thereafter has to be renewed at short intervals, with each renewal requiring the approval of a larger majority of legislators. It thus becomes easier over time for even a minority of legislators to bring the emergency to an end and that decreases the opportunities for executive abuse of power (Ackerman, 2004, p. 1047).

Ackerman does see some role for courts. They will have a macro role should the executive flout the constitutional devices. He recognizes both that the executive might simply assert the necessity to suspend the emergency constitution and that this assertion might enjoy popular support. But if the courts declare the executive to be violating the constitution, this will give the public pause. In addition, the courts will have a micro role in supervising what he regards as the inevitable process of detaining suspects without trial for the period of the emergency. Suspects should be brought to court and some explanation given of the grounds of their detention, not so that they can contest it – a matter which Ackerman does not regard as practicable – but in order to give the suspects an identity so that they do not disappear and in order to provide a basis for compensation once the emergency is over in case the executive turns out to have fabricated its reasons. He also wishes to maintain a constitutional prohibition on torture, which he thinks can be enforced by requiring regular visits by lawyers (Ackerman, 2004, pp. 1067–76).

Not only is the judicial role limited, but it is clear that Ackerman does not see the courts as having much to do with preventing a period of 'sheer lawlessness'. Even within the section on the judiciary, he says that the real restraint on the executive is the knowledge that the supramajoritarian escalator might bring the emergency to an end, whereupon the detainees will be released if there is no hard evidence to justify detaining them (Ackerman, 2004, p. 1069).

In sum, according to Ackerman, judges have at best a minimal role to play during a state of emergency. We cannot escape from the fact that a state of emergency is a legally created black hole or lawless void. It is subject to external constraints, controls on the executive located at the constitutional level and policed by the legislature. But internally, the rule of law does next to no work – all that we can reasonably hope for is decency. But once one has conceded that internally a state of emergency is more or less a legal black hole because the rule of law, as policed by judges, has no or little purchase, it becomes difficult to understand how external legal constraints, the constitutionally entrenched devices, can play the role Ackerman sets out.

Recall that Ackerman accepts that the reason we should not give judges more than a minimal role is the history of judicial failure to uphold the rule of law during emergencies. For that reason, he constructs a political economy to constrain emergency powers. But that political economy still has to be located in law in order to be enforceable, which means that Ackerman has to rely on judges. But why accept his claim that we can rely on judges when the executive asserts the necessity of suspending the constitution, when one of his premisses is that we cannot so rely?

Ackerman's model ends up supporting the Lockean position that the authority to declare a state of emergency is outside the legal order, residing in the intrinsically

political qualities of the sovereign. Since the sovereign is entitled to act against law if he judges this to be necessitous, he must be entitled to act against or to suspend any law that gets in the way of his judgement about the most expedient way to respond. Thus, he must also be able to act against or to suspend the constitution. And Rossiter, at the point in his study where he deals with Lincoln's actions during the American civil war, says that 'whatever the theory, in moments of national emergency the facts have always been with . . . John Locke' (1948, p. 219).

For the Kelsenian position, constitutionally authorized emergency powers are a puzzle. They raise the paradox mentioned earlier that arises when law is used to suspend its own operation; indeed, they sharpen the paradox by providing in the fundamental law of the land an explicit authority to do so. If the position's response to the paradox is that legality is preserved as long as the sovereign has explicit legal authority to use law to suspend or override principles of the rule of law, it will seem both that the position's understanding of legality is empty and formal and that it runs the risk of lending legitimacy to what is in substance arbitrary rule.

Hence, some argue that it is better not to respond to true emergency situations through the law. Oren Gross has suggested a new model, the 'Extra-legal Measures model' (2003), which tells public officials that they may respond extra-legally when they 'believe that such action is necessary for protecting the nation and the public in the face of calamity, provided that they openly and publicly acknowledge the nature of their actions'. Gross claims that this model is best suited to preserving the 'fundamental principles and tenets' of constitutional order. In addition, public officials will have to disclose the nature of their activities and hope for 'direct or indirect ex post ratification', either through the courts, the executive or the legislature (Gross, 2003, pp. 1023–4). The process involved will promote both popular deliberation and individual accountability, while the uncertain outcomes will provide a brake on public officials' temptation to rush into action. However, a significant problem for the Extra-legal Measures model is that if it is adopted as a model, as a prescriptive set of considerations for officials who face or think they face an emergency, it is likely that the officials will come to anticipate and anticipate correctly that the legal response to their extra-legal activity will be an Act of Indemnity or its equivalent (Dyzenhaus, 2005).

More significant is that in countries where the rule of law is a constitutive element of the political culture, the Kelsenian position is the default one, so that when the executive purports to act on something like the Extra-legal Measures model, it is likely to find itself hauled back within the rule of law by the courts, perhaps acting in concert with the legislature. Thus in the wake of 9/11, the Bush administration sought to detain indefinitely those it deemed 'enemy combatants' and it asserted that these detainees, whether held on American soil or at Guantanamo Bay in Cuba, were not within the jurisdiction of the United States courts. The administration claimed that it had a Lockean authority to act in this way, though one asserted to be constitutionally recognized in the war powers of the President, as well as legislatively authorized by a Congressional Order which gave the President authority to 'use all necessary and appropriate force' to respond to terrorism. But in *Hamdi* vs. *Rumsfeld* (2004) only one judge of the Supreme Court, Justice Thomas, was willing to accept the Lockean position, while the majority of the Court held that there had to be legislative authorization for detentions and that the detainees had to be given due process.

However, while the Court hauled the administration into judicial reach, it did so in a way that might be counterproductive for the rule of law. First, the Court was willing to find a legislative authorization for the detentions in the Congressional Order, despite the fact that the order said nothing about detention. Second, the Court indicated to the administration that it would accept very sparse procedures for contesting detention orders, so that it could be justly accused of substituting a grey hole for the black one in which the administration desired to operate.

While a black hole is a space devoid of legal controls, a grey hole is a space in which there are legal controls, but these are not substantive enough to give those in the hole any real protection – there is just enough of a veneer of legality to provide government with a basis to claim that it is still governing in accordance with the rule of law (Dyzenhaus, 2006). Since grey holes are in substance black, their existence is, as lawyers like Gross (2003; 2005) are right to point out, even more dangerous for the rule of law than black holes. A little bit of legality can be more lethal to the rule of law than none.

Part of the problem with the Supreme Court's decision in *Hamdi* is that the court created the grey hole. If the legislature creates such a hole, it does so after debate and scrutiny in the legislative chamber, though one has to take into account that in times of alleged emergency governments often succeed in stampeding the legislature. And judges who are minded to uphold the rule of law can find creative ways to reason from the fact that the legislature intended that government action be governed by some legal controls to attributing to the legislature the intention to have more control by the rule of law than appears on the face of the statute. Judges can, in other words, try to shade the grey hole away from black towards substantive rule-of-law controls. The government might then amend the statute to disabuse the judges of that view. But that choice subjects it and the legislature to a process of public scrutiny and moreover one that might be difficult to stampede. But when the court itself creates the grey hole, not only is this democratic 'dialogue' unlikely to happen, but one of the reasons it does not happen is that the court has already legitimized the grey hole.

The Supreme Court's decision in *Hamdi* gives impetus to a trend in political and legal theory in the USA that seeks to revise our understanding of the past in order to legitimize the present. Consider the fact that the Supreme Court's decision on the internment of Japanese Americans during the Second World War, *Korematsu* vs. *United States* (1944), was until recently regarded as a badge of shame on its record, because the majority of the Court supinely deferred to the executive claim that it was necessary to detain American citizens on the basis of racial origin. But now this decision is explained as justified because the Court required that there was legislative authorization for this decision despite the fact that, as dissenting judges pointed out, the legislation on which the military relied for its authority said nothing about detention. These revisionists do not argue that the rule of law cannot apply at all in emergency situations, nor that the rule of law cannot apply with all its force. Rather, they argue that as long as there is the veneer of legality blessed by judges, there are no concerns from the perspective of the rule of law (Sunstein, 2004). The problem with their position goes deeper than an equation of the rule of law with rule by law. They do not even require rule by law if by that we mean rule by explicit statutory authorization.

This trend indicates a new reality that makes the constitutional model a little beside the point. The reaction by the USA and also the UK to the attacks on 11 September 2001 has been shaped by the claim that the attacks plunged the world into an indefinite state of emergency, thus requiring a response outside of the ordinary limits of the rule of law with its bias towards liberty over security. Different leaders could have reacted by stating that the attacks were heinous crimes, that the criminals would be pursued with the full force of the law, and that the state would pour more resources into the kind of intelligence gathering essential both to pursue the perpetrators and to prevent future attacks (Roach, 2005).

However, a state of emergency is conceived as in its nature temporary. The legitimacy of the declaration of the state is conditioned on the intention to bring it to an end as soon as possible by restoring the normal order. But when the threat is considered of indefinite duration, as is the case with Al-Qaeda-like international terrorism, a declaration of a state of emergency lacks one of its defining features. And a permanent state of emergency seems a contradiction in terms. If conditions are such that political and legal order has to be reconfigured indefinitely, there is a 'new normal' not a state of emergency. In sum, the topic of states of emergency has resurfaced in political philosophy in a changed form which tracks the new political reality.

This is not to say that the constitutional model is irrelevant. It could come back into favour as a response to an emergency which comes about because of the threat of a global flu pandemic, just because the threat might be temporary. However, if current emergency practice is considered to be successful, it might supplant the constitutional model even when emergencies arise for which the constitutional model seems well suited.

Current practice is best described as the legislative model (Ferejohn and Pasquino, 2004), a model which uses statutes to authorize in advance officials to take emergency measures. As we have seen, an insistence on an authorizing statute raises questions about both the scope of the authorization – what the executive is permitted to do – and about the extent to which the executive, whatever it is permitted to do, is subject to the rule of law, as policed by judges. Government claims that there is a state of emergency will play a role at two levels: at the level of scope, especially if the scope includes measures that are in conflict with constitutional or international commitments; and at the level of the evaluation of executive action, where governments argue that judges must defer to executive judgement during emergencies.

An interesting difference arises out of the constitutional structure of the legal order. In orders where there is an entrenched bill of rights with no explicit mechanisms for derogating from rights or for limiting the rights through a doctrine of proportionality, an all-or-nothing approach to emergencies becomes likely. In the traditional debate, this fact manifests itself in the idea that the constitution has to be suspended during an emergency. In the new normal, it is much more likely that arguments will be deployed that seek to show that the constitution is simply not relevant: for example, because the detainees are held offshore or in an area that is designated as offshore or in a category – 'enemy combatants' – that is somehow outside the law. Alternatively, as in *Hamdi*, constitutional requirements can be imposed but so weakly that those subject to executive decisions are in effect in a black hole. The traditional claim that executive action

in a time of emergency is not amenable to judicial review, a 'political questions' doctrine, resurfaces in the claim that judges must review, but must defer submissively to the executive (Masur, 2005).

In contrast, in legal orders where there is explicit provision for derogations from and limitations of fundamental constitutional values, a more nuanced approach, one more conducive to the rule of law, can be adopted (Hickman, 2005). The idea of derogation and the idea of limitation both presuppose a public justification in terms of criteria that are amenable to judicial review. Thus when the UK government derogated from Article 5 of the European Convention on Human Rights in order to detain indefinitely aliens whom it considered security risks but who could not be deported, it relied on the criteria set out in Article 15 (1) of the European Convention, which require that the measures taken in response to an emergency are those 'strictly required by the exigencies of the situation, provided that such measures are not inconsistent with its other obligations under international law'.

The decision of the House of Lords shows that judges need not be submissively deferential to executive claims about emergencies (*A.* vs. *Secretary of State for the Home Department*, 2005). Only one judge dissented on the basis that the court had to defer to the government both on the question whether there was an emergency and on the question whether the legal response to the emergency was appropriate. Of the majority, one judge held that there was no state of emergency sufficient to justify the derogation. The remaining seven deferred to the government on that point, but held that the derogation was both disproportional and discriminatory because the detention provisions did not apply to citizens who were security risks. Despite their deference to the government on the question whether there was a state of emergency, their reasoning on the second question shows that if judges are to review effectively in this area, the two questions cannot be neatly separated. The judges are deciding whether the government's response is correctly calibrated to the emergency, whether it is a 'proportional' response. Thus when they review the appropriateness of the response, they will find themselves at least implicitly reviewing the judgement of the extent and kind of the emergency – indeed, whether there is an emergency at all in the sense that departures from the normal regime of law are justified.

But in order for the government's response to an emergency to be controlled by the rule of law, it is not sufficient that judges are vigilant guardians of its principles. The legal order must make possible a different approach from the all-or-nothing one that might flow from entrenched bills of rights. In addition, it is just as important that the right sorts of institutions are put in place to make effective review of the executive possible. In this regard, it is worth considering the United Kingdom's Special Immigration Appeals Commission (SIAC), which reviews the executive's decisions on deportations and detentions on the ground of national security and has a more general review jurisdiction over the anti-terrorism statute. There is an appeal from SIAC's decisions to the Court of Appeal. (Indeed, the House of Lord's decision just discussed upheld SIAC's decision, which had been overruled by the Court of Appeal.)

SIAC is composed of a three-person panel with expertise in law, immigration and intelligence. In respect of deportation and detention decisions, it has available to it a panel of special advocates who can represent appellants. These advocates play their role when parts of the proceedings before SIAC take place in closed session because it

is considered necessary to keep information confidential. SIAC's decision is based on both the closed and the open session, though its reasons do not disclose information from the closed sessions.

SIAC does have defects from the perspective of the rule of law: most notably, that when confidential information is tested in closed session before it, the appellant and his lawyer do not have access to the information and the special advocate may not communicate with the appellant. But more important is that SIAC goes much further than the United Kingdom had gone before in trying to ensure that a rule-by-law response to a perceived emergency is coupled with the rule of law.

SIAC was created in reaction to a European Court of Human Rights decision that the United Kingdom's deportation regime was incompatible with its human rights commitments. But although its creation was prompted by judges, it had to be designed by the government and the legislature. Moreover, it has an expertise that generalist judges lack when it comes to testing executive claims about national security, though such judges still play a role if SIAC's decisions are appealed.

The moral is that it is a mistake always to take as one's basis for understanding states of emergency those rare situations where there is no time to craft a legislative response. When there is the opportunity to contemplate how the law should be used to react to emergencies, as sometimes there is, it is possible to react in a way that maintains what one might think of as the rule-of-law project. That project requires that the legislature, the government and judges co-operate in ensuring that official responses to the emergency comply not only with the rule of law, but with human rights commitments, unless these are specifically and justifiably derogated from (Dyzenhaus, 2006). Only that can prevent what might, in the new normal, amount to a rather radical reconfiguration of political and moral commitments that have been written into the positive law of Western legal orders (Waldron, 2005).

References

A vs. *Secretary of State for the Home Department* [2005] 2 WLR 87.

Ackerman, B.: 'The emergency constitution', *Yale Law Journal*, 113 (2004), 1029–91.

Dicey, A. V.: *An Introduction to the Study of the Law of the Constitution* (1885), 10th edn (London: Macmillan, 1959).

Dyzenhaus, D.: 'The state of emergency in legal theory', in *Global Anti-terrorism Law*, ed. V. Ramraj, M. Hor and K. Roach (Cambridge: Cambridge University Press, 2005), pp. 66–89.

—: *The Constitution of Law: Legality in a Time of Emergency* (Cambridge: Cambridge University Press, 2006).

Ferejohn, J. and Pasquino, P.: 'The law of the exception: a typology of emergency powers', *International Journal of Constitutional Law*, 2 (2004), 210–43.

Gross, O.: 'Chaos and rules: should responses to violent crises always be constitutional?', *Yale Law Journal*, 112, (2003), 1011–34.

—: 'Stability and flexibility: a dicey business', in *Global Anti-terrorism Law*, ed. V. Ramraj, M. Hor and K. Roach (Cambridge: Cambridge University Press, 2005), pp. 65–89.

Hamdi vs. *Rumsfeld* 124 S. Ct. 2633 (2004).

Hickman, T. R.: 'Between human rights and the rule of law: indefinite detention and the derogation model of constitutionalism', *Modern Law Review*, 68 (2005), 655–68.

Kelsen, H.: *Introduction to the Problems of Legal Theory: A Translation of the First Edition of the Reine Rechtslehre or Pure Theory of Law* (1934), trans. S. L. Paulson and B. Litschewski-Paulson (Oxford: Oxford University Press, 1992).
Korematsu vs. *United States* 323 US 214 (1944).
Locke, J.: *Two Treatises on Civil Government* (1690), ed. P. Laslett (Cambridge: Cambridge University Press, 1988).
Masur, J.: 'A hard look or a blind eye: administrative law or military deference', *Hastings Law Journal*, 56 (2005), 441–521.
Roach, K.: 'The criminal law and terrorism', in *Global Anti-terrorism Law*, ed. V. Ramraj, M. Hor and K. Roach (Cambridge: Cambridge University Press, 2005), pp. 129–51.
Rossiter, C. L.: *Constitutional Dictatorship* (Princeton, NJ: Princeton University Press, 1948).
Simpson, A. W. B.: *In the Highest Degree Odious: Detention without Trial in Wartime Britain* (Oxford University Press, 1992).
Sunstein, C. R.: 'Minimalism at war', *The Supreme Court Review*, (2004), 47–109.
Waldron, J.: 'Torture and positive law: jurisprudence for the White House', *Columbia Law Review*, 105 (2005), 1681–750.

Further reading

Agamben, G.: *State of Exception*, trans. K. Attell (Chicago, Ill.: Chicago University Press, 2005).
Cole, D.: 'Judging the next emergency: judicial review and individual rights in times of crisis', *Michigan Law Review*, 101 (2002–3), 2565–95.
Issacharoff, S. and Pildes, R. H.: 'Emergency contexts without emergency powers: the United States' constitutional approach during wartime', *International Journal of Constitutional Law*, 2 (2004), 296–333.
Schmitt, C.: *Political Theology: Four Chapters on the Concept of Sovereignty*, trans. G. Schwab (Cambridge, Mass.: MIT Press, 1988).

Chapter 51

Toleration

STEPHEN MACEDO

More than three hundred years after the case for toleration received classic expositions in writings by Pierre Bayle, John Locke and others, the grounds and limits of toleration remain hotly contested. While broad principles of religious toleration reign in most Western nations and elsewhere, the freedom to contest and reject dominant religious and political views is sharply limited in many places. The term 'fundamentalism' was originally coined by Protestant anti-modernists and biblical literalists. It has since come to be applied to a wide range of religious and even political movements, often highly traditionalistic, who reject accommodations with modern liberal culture or politics, and who see themselves as recovering an original and strict understanding of religious truths. In the United States, Protestant fundamentalists have long opposed the teaching of Darwinian evolution, and many promote 'creation science' or 'intelligent design' as alternatives. In Europe, Salman Rushdie's depiction of Muhammad in *The Satanic Verses* provoked violent demonstrations and led the Ayatollah Khomeini to pronounce a death sentence on the author. More recently, 'Islamic fundamentalism' has come to be associated with militant hostility to the West (Marty and Appleby, 1995).

The fact is that such controversies do more than illuminate the outer edges of the reigning political settlement. They reveal problems at the very foundation of the case for liberal democracy. Can the liberal state really claim to be non-partisan on religious questions, or is it not only inhospitable to robust forms of religious faith but ultimately based on dogmatic assertions of its own? The success of the case for liberal toleration is less certain than one might suppose.

It was long thought that social peace required religious uniformity, and that belief persisted after the Reformation shattered the hegemony of Catholicism. It took a good deal of pious killing before toleration gained widespread acceptance in Europe. Battle fatigue presented the state with an opportunity to rise above divisive conflict and focus on the pursuit of shared interests and aims, such as peace, freedom and material prosperity. But how can religious toleration be defended as a matter of political principle rather than as an unfortunate necessity?

John Locke advanced an early and classic statement of the principled case for religious toleration in his *Letter Concerning Toleration.* The most memorable parts of the *Letter* are impassioned pleas for a separation of sacred and secular concerns, and for the confinement of political authority to common 'civil interests': the security and

property of individuals, goods of the body rather than the soul. The church, Locke insisted, is a thing 'absolutely separate and distinct from the Commonwealth. The Boundaries on both sides are fixed and immovable. He jumbles Heaven and Earth together, the things most remote and opposite, who mixes these two Societies . . . (Locke, [1689] 1985, p. 33). All of this sounds pretty conclusive, and suggests the later ideal of a 'wall of separation' between church and state.

Locke advanced a host of reasons on behalf of toleration. He denied that people would, in forming political societies, consent to delegate authority over religion to governments. He denied that secular rulers had any special expertise in matters of faith and asserted that princes would, in any case, use power over religion for their own ends. Like the twentieth-century liberal Karl Popper, Locke emphasized the fallibility of our judgements in many religious matters and the importance of correcting our views through peaceful public argument (Popper, 1987).

Lockean arguments for toleration are far from airtight (Herzog, 1989; Waldron, 1991). Locke insists that persecution is irrational because faith depends on inward assent and cannot be coerced. But while suppression might not persuade particular individuals, it may slow or halt the spread of ideas and so shape the social environment in which individuals learn. Locke also claims that people should not object to living peacefully with those regarded as heretics: one man's salvation is nobody else's business; his damnation is no harm to others. Once again, however, the devout might hold that heresy threatens their ability to raise their children to the true faith. Locke does not really succeed, then, in fashioning arguments capable of convincing those who regard a supportive social and political environment as crucial to salvation.

While the aim of arguments for toleration is to distinguish the concerns of politics and religion, the argument for toleration itself cannot leave religion aside. Indeed, before many people could accept toleration their religious ideas had to change. Locke takes this bull by the horns, announcing, 'I esteem that Toleration to be the chief Characteristical Mark of the True Church', and appealing 'to the Consciences of those that persecute', and otherwise trying to shape Christian doctrine to support toleration (Locke, [1689] 1985, p. 23). Locke repeatedly signals the dependence of his argument on what he takes to be the proper understanding of Christianity.

All of this leads to a grave problem. It appears that the success of arguments for toleration depend upon getting people to think about religion in certain ways (we would need to include arguments for Jews, Muslims and many others). Thus, the case for toleration seems to require showing that for each and every religion, a 'liberal' interpretation of its strictures is to be preferred by believers. Locke's problem dogs theorists to this day. Public argument alone cannot fully justify the transformation of religious views on which liberalism seems to depend: Locke's religious arguments remain eminently contestable, and contemporary liberal theorists typically leave religious issues to one side.

The importance of this problem becomes apparent when we recognize one central aspiration that contemporary liberals share with Locke. 'Liberals demand', as Jeremy Waldron puts it, 'that the social order should in principle be capable of explaining itself at the tribunal of each person's understanding' (Waldron, 1987, p. 149). Since laws are backed by force, the least we owe to our fellow citizens who are subject to the laws we help shape are reasons and evidence that can be openly presented and publicly

examined, public reasons the recognition of whose force does not depend on adopting a special religious framework (Gutmann and Thompson, 1996). Reason-giving manifests our respect for the reasonableness of others, and informs many of the central institutions and practices of liberal society (Macedo, 1990).

One way of handling the problem of toleration is to argue that liberalism is based on a conception of human good as a whole. John Stuart Mill celebrated freedom and diversity because they provoke experimentation, criticism and public argument, which contribute to human happiness and progress, properly understood, in the religious realm as elsewhere. In such an environment human nature can, like a tree, 'grow and develop itself on all sides, according to the tendency of the inward forces which make it a living thing' (Mill, [1861] 1975, p. 56). Joseph Raz, likewise, has defended an autonomy-based liberalism, which demands 'that people should be allowed freely to create their own lives' (Raz, 1988, p. 426).

The toleration that autonomy-based liberalism justifies may, however, turn out to be narrow in scope. Susan Mendus argues that autonomy-based liberalism justifies toleration only towards 'those diverse forms of life which themselves value autonomy and thus makes toleration a pragmatic device' (Mendus, 1989, p. 108). Religious communities that value simplicity and withdrawal from the modern world, such as the old Order Amish, or fundamentalist communities committed to honouring the literal and inerrant truth of the revealed word of God, may fail to win full protection from a toleration guided by the promotion of individual autonomy. Deborah Fitzmaurice accepts this conclusion, arguing that autonomy is more important than neutrality (Fitzmaurice, 1993). Similarly, Raz regards autonomy-rejecting communities as 'inferior to . . . the dominant liberal society', and as harmful to children (Raz, 1988, p. 423). Nevertheless, Raz believes that such communities should in most instances be tolerated, so long as they are viable and do not harm others. His support may be lukewarm but, as we shall see, the concept of toleration may be especially applicable when accompanied by an element of disapproval.

Some argue that autonomy-based ideals are inadequately respectful of the diversity of ways of life, heightening the tension between liberalism and fundamentalism. Whereas autonomy is achieved when individuals can critically reflect on their values and commitments, some traditionalistic communities favour uncritical acceptance of received roles and teachings. William A. Galston defends a liberalism based on Isaiah Berlin's value pluralism, according to which there are multiple, basic human goods that are incommensurable and that often conflict with one another. Ways of life, conceptions of the human good or excellence, are similarly multiple and conflicting. Liberal pluralism seeks 'maximum feasible accommodation' of diverse ways of life, including traditionalistic communities that some may find 'stultifying and benighted' (Galston, 2002, pp. 20, 61; Kukathas, 2003). One problem with this view is that it is unclear why pluralism should lead to liberalism unless we give special weight to the importance of individuals' capacity for weighing and choosing among values. This makes autonomy the heart of liberal pluralism, and it limits any fulsome endorsement of narrow-horizoned communities that restrict children's reflective capacities (Crowder, 2002).

Other liberals try to avoid the partisanship of autonomy-based liberalism by emphasizing that the state should strive to be neutral towards competing conceptions of the good life (Ackerman, 1980; Larmore, 1987; Goodin and Reeve, 1989). Such neutrality

allows the state to show equal concern for the freedom of all its citizens, citizens whose status in the political community is independent of their particular religious commitments or views about a good life. One problem for liberal neutrality is that nearly everything the government does will have unequal effects on different conceptions of a good life, or on different religious beliefs. Liberal politics will advantage those forms of belief that 'go with the flow' of a diverse, individualistic social environment. Religions that oppose diversity and critical thinking will have to swim against the current of this society (Macedo, 1990; Galston, 1991). The liberal deck would appear to be stacked against ascetic, totalistic and otherworldly religions.

Larmore addresses the problem of non-neutral effects by insisting that the concern of liberal neutrality is with procedure rather than outcome (or effect): 'political neutrality consists in a constraint on what factors can be invoked to justify a political decision'. The liberal state may restrict ways of life for '*extrinsic* reasons, because, for example they threaten the lives of others', but not because of any 'presumed *intrinsic* superiority – that is, because it is a supposedly truer conception' (Larmore, 1987, pp. 44, 43; Rawls, 1993, pp. 191–4). By avoiding direct judgements about the intrinsic value of different lives the state exhibits equal respect for persons, who have an equal right to pursue different conceptions of a good life.

One might ask, however, just how thoroughgoing can be a liberal's commitment to neutrality: does the ideal of neutrality rests on neutral foundations? Larmore claims that indeed it does: a neutral justification for neutrality can be found in 'a universal norm of rational dialogue' (Larmore, 1987, p. 53). All that neutrality requires, he says, is that people be prepared to keep the conversation going in order to find ground for agreement that neither side can reasonably reject.

Neutrality, so understood, stands for mutual respect among only those people committed to basic values that are by no means equally hospitable to all religious views. The conversational or dialogic ideal that underpins liberal neutrality defers to the authority of public reasons and evidence, but 'true believers' may not regard these as reliable or non-partisan. Left out of neutral dialogue are 'fanatics and would-be martyrs' among others, for whom 'civil peace is not so important' (Larmore, 1987, p. 60). But how on earth can liberals show that civil peace *is* so important – which is to say, more important than conflicting moral and religious demands? Here again we run into Locke's problem: liberal toleration depends upon a ranking of ultimate values that supports the authority of peace, freedom and public reasonableness, but that ranking cannot be established through public reason.

What does a liberal say about a range of religious beliefs that includes liberal Protestantism, the Roman Catholicism of Pope Pius IX, and sects that require holy war against non-believers? Religions not compatible with liberal political requirements will be opposed by the liberal state. Illiberal religions will perhaps be tolerated (so long as they go along with the regime) but prevented from acting on their illiberal beliefs. Thus, liberals must implicitly assert the falsehood of religious convictions incompatible with liberalism (see Rawls, 1971, pp. 201–21; Barry, 1973, pp. 121–7). It would seem necessary, then, for liberals to try to maintain, as did Locke, that religious beliefs and other extra-political values are compatible with or actively support the liberal political settlement. That is precisely the kind of excursion that liberals have wanted to avoid all along, for reasons we have seen.

In the face of these and other difficulties it is not surprising that some liberals have retreated from the ideal of a political community based on shared moral principles. Larmore argues that liberalism represents a *modus vivendi*, a means of accommodation among people with deep disagreements – indeed, among people with ultimate and irresolvable disagreements (Larmore, 1987, p. 129). Stephen Holmes contends, likewise, that modern liberal democracies depend on 'gag rules' on especially divisive issues. We do not settle many deep disagreements; rather, we shift them off the political agenda for the sake of co-operation on other matters, and we remain deeply divided (Holmes, 1988).

The *modus vivendi* view of liberal toleration has a number of problems. A *modus vivendi* would seem unstable compared to an agreement on basic principles of political morality. Given the transcendent importance of religion in many people's lives, convergence on a positive principle of religious toleration would appear to be of great practical importance, and well worth trying to justify. It is not clear, in any case, that characterizing liberalism as a *modus vivendi* is really more successful than the other strategies of avoidance that we have seen. In order for religious toleration and political co-operation to be stable, our shared values and aims must be more important than our disagreements. Shared values must, in other words, be of overriding importance, and we must care, as a political matter, that their overriding importance can be justified publicly.

Modus vivendi liberals must show that common values are weighty enough to justify shifting religion off the political agenda permanently: that leads us right back to Locke's problem. The fact is that liberalism must *settle*, rather than *avoid*, the question of religion to a much greater degree than the *modus vivendi* liberals want to admit, at least in the sense of imposing limits on what could be true in religion and elsewhere. At base, liberal citizens must still be people who agree rather than disagree. While autonomy-based liberalism may be too demanding, the *modus vivendi* view (like other strategies of avoidance) seems not demanding enough to ground a morally principled and stable liberal settlement.

The best approach to the problem of political justification amidst great diversity owes something to these strategies of avoidance. The most that we can hope for in a diverse political community is a public defence of basic principles of political morality in terms accessible to reasonable fellow citizens, those motivated by a reciprocal willingness to find mutually justified principles. It was Rawls's important innovation, in his later work, to insist that citizens of diverse modern societies can converge on a shared political morality while extending the principle of toleration to long-disputed philosophical and religious questions: liberalism should be 'political not metaphysical'. Principles of liberal political morality can be free-standing in the sense that they are compatible with many differing but reasonable comprehensive religious and philosophical world-views (Rawls, 1995; Gutmann and Thompson, 1996). Citizens may converge on principles of justice and even a shared rationale for these principles while holding opposing views about the existence of God, the mind–body problem in philosophy, and other matters. Of course it is useful to have on hand various accounts of the sort Locke provided: liberal interpretations of specific religious traditions. But it would be unreasonable to expect citizens to converge on a shared account of religious truth, and it is also unnecessary to the project of political justification.

Other thinkers believe that the best course is to treat liberalism as an ongoing tradition which *we* have reason to value but that cannot be universally justified through abstract argument. John Gray urges liberals to drop what he sees as their universalizing tendencies, and to adopt a postmodernist stance which is satisfied with a liberalism grounded only in the particularities of our own culture and the specific ways in which it suits us (Gray, 1989, postscript; Rorty, 1989, esp. essay 9). Liberalism is just the way we do things around here, and it suits us just fine.

The postmodern turn, I believe, rests on a false analysis of our problem. It supposes that philosophers are preoccupied with generating abstract, general principles for their own sake. Dispense with the strange preoccupation and philosophy's contrived problems will go away. But that is wrong. A practical and honourable aspiration lies behind the desire to justify toleration: if we are going to coerce and punish people who break the law, the least we can do is to try to give them good reasons for obeying it. And the fact is that radical disagreement is not only something that we encounter on trips to strange lands: deep diversity is an increasingly prominent feature of the internal life of Western societies.

Pressing practical dilemmas raise questions about the bounds of toleration and demand resolution on the basis of the best reasons we can muster. It is argued, for example, that some of our political rules and practices indirectly discriminate against members of minority religions. It is not accidental, after all, that our weekends are positioned so as to accommodate the religious practices of Christians and Jews. Fairness may require us to make special efforts to accommodate Muslims, for example, whose religious observances fall on Fridays (Kymlicka, 1995; Barry, 2002).

The controversies surrounding Salman Rushdie and the more recent one involving cartoons offensive to Muslims published in Denmark raise the issue of whether freedom of speech should ever be limited simply because its exercise is deemed offensive and insulting to believers. Must a society like Britain that has a blasphemy law protecting Christianity extend similar protections to Islam and other religions? Sanctions against blasphemy cannot be justified in a way that extends only to the dominant religion in a pluralistic society. Can expressions that are offensive in manner be regulated without curtailing substantive criticisms of particular religious beliefs (Jones, 1990)?

Another controversy concerns the question of whether toleration is an adequate response to many minority complaints. Anna Elisabetta Galeotti argues that 'liberal toleration' fails to tackle the sources of intolerance against groups such as gays and lesbians. She calls for a more robust form of 'toleration as recognition' that would extend equal public standing. Rainer Forst, in contrast, argues that the concept of toleration itself has a precise meaning: it combines permission and disapproval. He urges that we should not confuse the concept of toleration and the different idea of equal respect (lacking an element of disapproval). Gays and lesbians do merit equal respect rather than mere toleration, but the fault is not in the concept of toleration (Galeotti, 2002; Forst, 2003).

Fundamentalism provides an important vantage point from which to critically examine our deepest political commitments: it raises the question of whether, finally, liberals can do more than simply assert the ultimate values of individuality, liberty and public reasonableness. In the final analysis, it would not be too much to say that

liberalism depends on a certain configuration of ultimate ends and a certain ordering of the soul, neither of which are entirely within the power of liberal public philosophy to bring about.

References

Ackerman, B.: *Social Justice in the Liberal State* (New Haven, Conn.: Yale University Press, 1980).

Barry, B.: *The Liberal Theory of Justice* (Oxford: Clarendon Press, 1973).

—: *Culture and Equality: An Egalitarian Critique of Multiculturalism* (Cambridge, Mass.: Harvard University Press, 2002).

Crowder, G.: *Liberalism and Value Pluralism* (London: Continuum, 2002).

Fitzmaurice, D.: 'Autonomy as a good', *The Journal of Political Philosophy*, 1 (1993), 3–19.

Forst, R.: *Toleranz im Konflikt: Geschichte, Gehalt und Gegenwart eines umstrittenen Begriffs* (Frankfurt am Main: Suhrkamp, 2003).

Galeotti, A. E.: *Toleration as Recognition* (Cambridge: Cambridge University Press, 2002).

Galston, W. A.: *Liberal Purposes: Goods, Virtues, and Diversity in the Liberal State* (Cambridge: Cambridge University Press, 1991).

—: *Liberal Pluralism* (New York: Cambridge University Press, 2002).

Goodin, R. E. and Reeve, A., eds: *Liberal Neutrality* (London: Routledge, 1989).

Gray, J.: *Liberalisms: Essays in Political Philosophy* (London: Routledge, 1989).

Gutmann, A. and Thompson, D.: *Democracy and Disagreement* (Cambridge, Mass.: Harvard University Press, 1996).

Herzog, D.: *Happy Slaves: A Critique of Consent Theory* (Chicago, Ill.: University of Chicago Press, 1989).

Holmes, S.: 'Gag rules or the politics of omission', in *Constitutionalism and Democracy*, ed. J. Elster and R. Slagstad (Cambridge: Cambridge University Press, 1988), pp. 19–58.

Jones, P.: 'Rushdie, race, and religion', *Political Studies*, 38 (1990), 687–94.

—: 'Bearing the consequences of belief', *The Journal of Political Philosophy*, 2 (1994), 24–43.

Kukathas, C.: *The Liberal Archipelago: A Theory of Diversity and Freedom* (Oxford: Oxford University Press, 2003).

Kymlicka, W: *Multicultural Citizenship: A Liberal Theory of Minority Rights* (Oxford: Oxford University Press, 1995).

Larmore, C.: *Patterns of Moral Complexity* (Cambridge: Cambridge University Press, 1987).

Locke, J.: *A Letter Concerning Toleration* (1689), ed. J. H. Tully (Indianapolis, Ind.: Hackett, 1985).

Macedo, S.: *Liberal Virtues: Citizenship, Virtue, and Community in Liberal Constitutionalism* (Oxford: Clarendon Press, 1990).

Marty, M. E. and Appleby, R. S.: *Fundamentalisms Comprehended* (Chicago, Ill.: University of Chicago Press, 1995).

Mendus, S.: *Toleration and the Limits of Liberalism* (Atlantic Highlands, NJ: Humanities Press, 1989).

Mill, J. S.: *On Liberty* (1861), ed. D. Spitz (New York: Norton, 1975).

Popper, K.: 'Toleration and intellectual responsibility', in *On Toleration*, ed. S. Mendus and D. Edwards (Oxford: Clarendon Press, 1987).

Rawls, J.: *A Theory of Justice* (Cambridge, Mass.: Harvard University Press, 1971).

—: *Political Liberalism* (New York: Columbia University Press, 1993).

Raz, J.: *The Morality of Freedom* (Oxford: Clarendon Press, 1988).

Rorty, R.: *Contingency, Irony, and Solidarity* (Cambridge: Cambridge University Press, 1989).
Waldron, J.: 'Theoretical foundations of liberalism', *Philosophical Quarterly*, 37 (1987), 127–50.
—: 'Locke: toleration and the rationality of persecution', in *Locke and Toleration*, ed. S. Mendus and J. Horton (London: Routledge, 1991).

Chapter 52

Totalitarianism

EUGENE KAMENKA

History

Totalitarian, totalitarianism are twentieth-century words. They are used to describe states, ideologies, leaders and political parties that aim at total transformation and control of their own societies or, at least, at total control of everything that is actually or potentially politically significant within those societies. More positively, 'totalitarians' may see themselves as promoting a total conception of life and an organically cohesive state and community. They have been accused of aiming, inevitably, at a total transformation of the world. Applied to a whole society, 'totalitarian' is, quixotically, a success word – to call a society totalitarian is to suggest the ruler's control measures up to this programme.

The word *totalitarian* was linked, initially, with Italian fascism and Mussolini's rise to power. It is derived from the Italian *totalitario*, meaning complete, absolute. There is a similar French usage, and priority is disputed by philologists. The derivative English *totalitarian* appeared in B. B. Carter's 1926 translation of Sturzo's *Italy and Fascismo.*

Mussolini, in a speech on 22 June 1925, attacking the remnants of his political opposition in the Italian Parliament, spoke of *la nostra feroce volunà totalitaria* (our fierce totalitarian will). The soon-to-be-official philosopher of Italian fascism, Giovanni Gentile, had written of fascism as a 'total conception of life'. Mussolini over the next few years came more and more to describe the system he had created as '*lo stato totalitario*' – the total or totalitarian state.

Critics of authoritarianism, of Mussolini's actual reliance on castor oil and the cosh and of Hitler's National-Socialist terror state, came increasingly to link fascism, Nazism and communism as promoting totalitarian rule and a totalitarian concept of society, fundamentally opposed to the pluralism of democracy. In 1929, *The Times* wrote of 'a reaction against parliamentarism . . . in favour of a "totalitarian" or unitary state, whether Fascist or Communist'. Nazis (especially Hitler himself) used the term sparingly in the early 1930s and hardly at all after that, though their attacks on parliamentarianism and the 'spiritual decay' of democracy were vicious and uncompromising. They preferred the terms 'authoritarian' and 'leadership principle'.

With the Second World War, *totalitarian* came to be a negative, a pejorative description of what an increasing number of politically and sociologically minded critics, from

Franz Borkenau to George Orwell, saw as a dangerous new phenomenon – powerful, ideologically based and implacably opposed to freedom, creativity and independence, organizing the masses in the interest of evil. Borkenau's *The Totalitarian Enemy* appeared in 1940; Aldous Huxley, by 1944, was accusing the left-wing intellectuals and the Labour Party in the United Kingdom of being 'eager totalitarians'.

Equally influential, if not even more so, was Karl Popper's *The Open Society and Its Enemies* ([1945] 1966), which linked Plato, Hegel and Marx as propounders of a closed monism, which rejected both actual and methodological individualism, pitting essentialism against pluralism, authoritarianism against freedom. Popper himself did not, at that stage, stress the word totalitarian but his elevation of the open society became an important intellectual slogan in the critique of both fascism and communism.

It was especially after the Second World War, with increasing consciousness of communist methods of statecraft and growing suspicion of Stalin, that totalitarianism came to be an important wider political concept, suggesting that fascism, National Socialism and communism all rejected 'plurality of thinking' and ruthlessly imposed their will on society. In doing so, they not only posed similar threats to democracy but were developing similar types of states, in which the state or the political leadership or the all-embracing ideological party was more powerful than the rest of society put together. Successful internal resistance was impossible.

The late Professor Carl J. Friedrich played a leading role in the conference on *Totalitarianism* held in the American Academy of Art and Sciences in 1953 by seeking to define, or at least characterize, that concept. He published, with Z. K. Brzezinski, their highly influential *Totalitarian Dictatorship and Autocracy* in 1956. Hannah Arendt had completed her *The Origins of Totalitarianism* in autumn 1949 and published the first edition of the book in 1951, emphasizing that anti-Semitism was an outrage to common sense and that Progress and Doom are two sides of the same medal – both articles of superstition, not of faith. Totalitarianism came at the end of a century of rubbish.

Karl A. Wittfogel, in his *Oriental Despotism: A Comparative Study of Total Power* (1957), linked communist totalitarianism with the traditions and realities of an agro-managerial despotism based on what Marx called an 'Asiatic mode of production', rooted in the historical primacy of state-sponsored irrigation and flood control. Here the state was, and is, the chief organizer of the necessary foundations of economic activity and, as some quasi-Marxists have subsequently preferred to stress, the principal appropriator of surplus value. Power, Wittfogel demonstrated *contra* Marx, did not derive from ownership alone; the state was not necessarily the executive committee of an owning class. Power could rest on managerial and organizational functions and be aided by the absence of security in private property. It could therefore be intensified rather than *aufgehoben* ('sublated', i.e. abolished and transcended) in societies in which significant private property had been abolished. Both their technological sophistication and modernization and their more complete control of the economy made twentieth-century totalitarianism in Russia and China more powerful, more pervasive, more successful in controlling society than the totalitarianisms, the agro-managerial despotisms, of the past. Truly fragmented and feudal societies like Japan, however, were not instances of totalitarianism or Oriental despotism, though they lay in the Orient and copied some Chinese imperial pretensions.

In the next ten to twenty years the word 'totalitarianism' entered more and more into popular usage, especially in the English-speaking world. The Marxist left derided or criticized it as an imprecise or dishonest attempt to link fascism and communism as enemies of democracy, to deflect attention from the class struggle and to promote the Cold War. Others thought it captured the essential thing about Leninist communism: its ruthless use of state power to suppress everything that might challenge such power or the ultimate vision of communism.

With Khrushchev's 1956 secret speech admitting the crimes of Stalin came the rapid disintegration of the comparatively monolithic World Communist Movement, especially after the failure of the 1960 World Communist Conference. Some communists and not only social democrats began to be more openly and sharply critical of the 'Russian model' for communism and to argue that a true socialism required genuine democratic institutions and traditions and not only the abolition of significant private ownership in the means of production, distribution and exchange and the rational organization of the economy. The more academically minded and the less politically *engagé* worried how totalitarianism was to be defined, what its essential or necessary characteristics were and who, if anybody, was the person, class, group or party whose will shaped the character and policies of a totalitarian society. That discussion took on increasing urgency and scope both within and outside Marxism as Stalinism and then Maoism came to be more widely repudiated. Just as the changes in the communist world and fading of the Cold War into history seemed to be making the concept 'totalitarian' politically and ideologically obsolete, rebellious dissidents and democrats in Eastern Europe, the territories of the then USSR and even in China began in 1990 and 1991 to take up the term once more to express their disgust for a system that strove to smother instead of liberate civil society, individual liberty and human rights and that used unprincipled force and trickery to suppress opposition. Many such anti-totalitarians are now the rulers of their country.

Analysis

Fundamental concepts in social thought, Max Weber reminds us, are not well presented as classificatory concepts, as pigeonholes into which societies, social institutions and social ideologies are to be fitted on an all-or-nothing basis. They are rather 'ideal types', logically interrelated complexes of attitudes, institutions and trends that are mutually supportive within each ideal type and strive to realize themselves in history. Further, many fundamental political concepts, like power, authority, control, are similarly porous, relative, incapable of clear-cut separation, distinction, absoluteness. They are points, often moving points, in a continuum that knows not truly absolute power and control, totally uncontested authority or the complete absence of those phenomena. No one sensitive or informed has any doubt about the difference between Stalin's Soviet Union and the situation that preceded and followed his period of power – yet there are important continuities. It is plausible to say that Stalin's Russia and Stalin's practice and ideology were paradigmatically totalitarian, that Lenin was only an authoritarian with proto-totalitarian tendencies and that Khrushchev and his successors moved the Soviet Union back in fits and starts to an authoritarian society that

nevertheless had continuing totalitarian structures and potentials. There is no great profit or interest in seeking to carve up the flux of history into formally separate segments; the important issue is the direction and strength of a development. Even the most fervent proponents of the concept of a totalitarian state do not believe that the dividing lines between the authoritarian and the totalitarian will not be blurred or problematic, a matter of degree, or that authoritarianism in fact knows no plurality of thinking or of action.

The most influential attempt to reduce to order the features which characterize the regimes generally considered totalitarian – the fascist Italian, the Nazi German and the communist model created in the Soviet Union and copied in China and elsewhere – was that made by Carl J. Friedrich in 1954. He strove, in his presentation to the 1953 *Totalitarianism* Conference published in 1954 as 'The Unique Character in Totalitarian Society', to show that totalitarianism was a new and unique form of rule and that its characteristics were common to both the fascist and the communist type of totalitarianism. Friedrich listed five factors that made up or justified the label 'totalitarian':

1 An official ideology focused on a perfect final state of humankind, to which everyone is supposed to adhere.
2 A single mass party usually symbolized by or subordinated to one person; it is hierarchically organized and superior to or intertwined with the state bureaucracy.
3 A technologically advanced, near-complete monopoly of the weapons of armed combat by that party and the bureaucracy subordinated to it.
4 A similar nearly complete monopoly of the means of mass communication.
5 A system of physical or psychological control by terror.

Hannah Arendt, another distinguished student of totalitarianism, has emphasized that totalitarian movements aim at and succeed in organizing masses, not classes, and George Mosse, studying the nationalist *mise-en-scène*, war memorials, rallies and diaries, has brought out the theatrical means by which the Nazis especially welded the masses into a disciplined unity. As a more recent writer has put it, 'The totalitarian society is a single-minded structure. It mobilises all its resources under one authority to achieve one goal' (Walker, 1972, p. 5). Neither the Nazis nor the fascists, however – admittedly in a much shorter period – ever achieved the ubiquity of control over initially independent structures and institutions – the economy, the military – that the communists achieved. There is now some historical argument whether Bolshevik Russia, with its rallies and show trials, provided the theatrical and organizational model for the Nazis, or vice versa, but the element of psychological manipulation is now emphasized more strongly than it was in the earlier writing.

Friedrich, by then collaborating with Brzezinski and now increasingly conscious of communism, rather than fascism, in 1956 added a sixth factor to the totalitarian syndrome – central control and direction of the entire economy. (The Nazis, students have noted with surprise, exercised less pervasive and much more haphazard economic control.) Friedrich also extended the monopolies of control he had noted from mass communications and arms to all organizations including economic ones.

The expanded six-point syndrome promulgated by Friedrich and Brzezinski has long dominated the academic discussion of totalitarianism among political scientists and

helped to raise a host of problems. It has been argued that a monopoly of weapons is basic to most governments and not confined to those that are totalitarian and that most of the other five factors differ relatively rather than absolutely from the pretensions of many non-totalitarian governments. Some have thought that a theory and a programme of world domination and a need for constant mass mobilization of effort are essential to totalitarianism. The greatest problem, for everyone, has been the description of the ruling group or elite that dominates a totalitarian society. Most attempts to define it in class, educational, ideological, functional or interest group terms have not been conspicuously successful; nor have they reinforced the claim that there is a monolithic totalitarian system, party, bureaucracy or state. The true totalitarian servant, it has been said, is simply he (or she) who will do whatever is necessary to gain and keep favour. The most plausible Soviet 'ruling class' – the *nomenklatura* (Voslensky, 1984) – was defined by the fact that each appointment had to be approved by the highest party level.

More recently, the discussion of totalitarianism has put more emphasis on the absence or presence of those factors in society which are, at least relatively, independent of the state and capable of confronting it on the basis of their own authority. Private enterprise and private property made secure by law are two such factors; a comparatively autonomous legal system, tradition and profession is another; democratic institutions, a multiplicity of parties, a church not created by or subservient to the state constitute others. The upshot of these wide-ranging discussions is not a listing of the essential factors of totalitarianism or the marking off of unambiguous borders between the totalitarian, the authoritarian and the pluralist-democratic.

One of the most distinguished students of the Soviet Union and totalitarianism, Leonard Shapiro, has argued, indeed, that totalitarianism has pillars, such as ideology and the party, but that central to totalitarianism is a single leader, who usually recognizes that he will not have an equally determined and competent successor and who knows instinctively that collective leadership spells the beginning of the end. Shapiro (1972, pp. 124–5) concludes his *Totalitarianism* with perceptive and moving words:

> What, then, is the value of 'totalitarianism' as a concept? The evidence that has been adduced suggests that it stands for a distinct and new form of government which first became possible in the age of mass democracy, of modern technology and of twentieth-century nationalism. It can vary in its extent, in its success, in its totality – from the relative failure to erect a system of total power in the cases of Mussolini and Nkrumah, to the relative success of Hitler and Stalin. It is not a fixed and immutable form: it can change and evolve, as well as end in collapse and overthrow. It can develop into something approximating to liberal democracy, as in Yugoslavia or in the short-lived attempt in Czechoslovakia [1968] , which required brute force to put it down. It can coexist, at all events for a time, with an independent church, as in Poland; with pluralism of institutions, as in some of the other Communist governments in the Central and East European 'People's Democracies'; and with dissent, incipient pressure groups and some pluralism of institutions in the Soviet Union. These instances of coexistence may well be transitional stages towards a different form of dictatorship, towards some kind of liberal democracy, or towards a return of full and unqualified totalitarian power. All this suggests that totalitarianism is not a final and immutable 'model' of government, but more in the nature of a spectrum, with varying degrees of intensity and totality . . . Perhaps as a concept

> totalitarianism is elusive, hard to define, liable to abuse by the demagogue, and, if wrongly used, a source of confusion when we are trying to find our way through the maze of the many forms which a polity can assume. Yet, we should be poorer without it, if only because we would lack the reminder that there are stages in the history of nations, perhaps of every nation, when the fanaticism, the arrogance, the ruthlessness, the ambition and the hubris of one individual can plunge millions of men and women into madness, suffering, fear and destruction.

Collapse?

Totalitarianism is a twentieth-century word, but not one without earlier adumbrations or exemplifications. Consider only Aristotle's contrast between the unstable tyrannies among the Greeks and the pervasive, accepted, constitutionalized Oriental despotisms of successive Persian empires in which citizens are reduced to subjects and servility becomes a habit. Most students of totalitarianism believe that modern technology, especially the dramatic improvement in communication and techniques of surveillance, have made possible degrees of control by the centre undreamt of in earlier societies. Nevertheless, a strong sub-current in the literature emphasizes historical conditions and precedents that made possible the twentieth-century totalitarian state. That sub-current has derived inspiration from Marx's half-hearted conception of an Asiatic mode of production based on the state's organization of public works, especially irrigation and flood control, and from Max Weber's studies of bureaucracy, satrapy and rule by officials in Ancient Egypt, the Roman and Byzantine empires, Imperial China and Maurya India. The concept 'totalitarian' has thus been enriched, though also made more complex, by a wealth of historical detail, allusion and controversy. Much of that discussion, too, was initially but not permanently or exclusively organized around an allied and quasi-Marxist response to the rise of Mussolini, Hitler and Stalin, the concept of a bureaucratic or managerial class that owns collectively rather than individually. Such a class, it was now argued, could well use socialism as an ideology for legitimizing its own rule. Such bureaucracies created a society in which everyone who did not derive his power from the state was equally powerless and dependent, whether he lived in the 'Socialist Empire of the Incas', the Egypt of the New Kingdom or the Russia of the Muscovite Tsars. Bruno Rizzi's *La Bureaucratisation du monde* (1939), like Jan Waclaw Machajski's earlier *The Intellectual Worker* ([1905] 1968) and James Burnham's *The Managerial Revolution* (1941) helped to inspire this trend, though their somewhat pamphleteering contributions were quickly left behind, even if their anti-managerial sentiments were not.

Max Weber, studying ancient societies and traditional authority, distinguished three different types of traditional authority. *Gerontocracy* was the rule of elders taken to represent the group and to understand its sacred traditions. In *patriarchalism*, authority was exercised by a particular individual, designated by a partial rule of inheritance, but his authority was still pre-eminently on behalf of the group as a whole. *Patrimonialism*, for Weber, was dependent on the development of a purely personal administrative staff and especially of a military force belonging to the ruler himself. Members of the society

or group now become 'subjects'. Authority, though still primarily oriented to tradition in its exercise, makes the claim of full personal powers. Patrimonial bureaucracy enables the system to expand through regularized co-ordination of imperatives, through increasingly large staffs. But such authority continues to rest on tradition, and its focus is the personal authority of the ruler, including a large measure of charismatic or routinized charismatic authority. Weber argues that in the ancient world, but also in parts of the non-rational modern, such personal authority rests heavily on the external support of otherwise statusless dependants: slaves, coloni, eunuchs, conscripted subjects, mercenaries, bodyguards and others. Freed from traditional limitations, such patrimonial authority can approach the arbitrary exercise of the ruler's will and can become sultanism. Similar authoritarian tendencies, coupled with the promotion of bureaucratization, have been discussed by Edward Shils (1975) and Shmuel Eisenstadt (1963) as part of the political system of empires. In late imperial and imperial feudal societies, central authority rested to an important extent on a cultural and social tradition, created, represented and controlled by the centre, which reconstructed and evaluated social reality, the cosmic and the socio-political order, and the ultimate duties of the peripheries, providing symbols of collective identity and major modes of legitimacy. Such systems were indeed at their most powerful when they were Byzantine or Caesaro-Papist, welding together religious and political authority, ideologizing the work of the centre and its servants. Stalin's Russia and Mao's China have been seen as displaying significant continuity with the traditional empires they displaced.

Bureaucracies and authority can be civil or military or both. The remarkable rise of Russia and of Prussia as great powers in the most adverse circumstances was significantly connected in each case with the militarization of the population and of administration as the basis of expanded and rationalizing central power and with the consequent weakness of non-bureaucratic social classes as independent groups – a situation very different from that which obtained in most of Western Europe and especially in England, France, Italy, the Netherlands, etc. Reflection on these and similar developments led theorists who used the concept of totalitarianism to a sharp distinction between tyranny and totalitarianism or, in its earlier manifestation, between Oriental despotism and the contractually based pluralist European feudalism in which the king was never more powerful than the rest of society combined. Despotisms, systems of rule that knew only subjects and not citizens, were premissed on and made possible by the underdevelopment of social classes as independent economic or political groups. Whatever the reasons for such underdevelopment, and they might be many and contingent, one had no difficulty in recognizing a society in which no one was great or authoritative unless and until the ruler made him so. Much of this line of approach was premissed on and given heart by the claim that the two great successes of communism – the creation of the Soviet state and the formation of the People's Republic of China – took place in societies that had for much of their history been 'Oriental despotisms' in which a serving class totally dependent on the ruler was strong and respected and in which merchants and the non-official middle classes generally were weak and despised. On all this, of course, the literature is enormous, the dispute never-ending and the supply of considerations adduced as relevant inexhaustible. One implication of this

way of approaching the rise and initial success of communism – that Bolshevik communism is more at home with the legacy of the Tsars or the Sons of Heaven than with that of Jan Hus, the Polish *szlachta*, the Italian city-states or the Common Law – has again been given vivid plausibility by the collapse of communism in Eastern Europe and the break-up of the Soviet Empire.

Max Weber believed, correctly, that the prebendial authority of traditional bureaucracies produced a constant element of instability in which officials turned their offices into fiefs. This was irremediable until modern times, when a money economy, the development of Roman law and other factors gave rise to the impersonality of rational-legal authority that separated the office and the function from the home and independent social status of the office-holder. Communist totalitarian societies combined both prebendial and rational-legal elements in their structure of authority, using terror as the ultimate safeguard against independence while a strong leader was in charge. Without terror, even the allegedly rational bureaucratic structures extolled by Weber proved to be less 'rational' and more potentially competitive and client-oriented than he admitted. The central issue about totalitarianism is not the absence of competitive and conflicting groups, an absence falsely proclaimed by the official ideology, but their ultimate insecurity while the leader or the centre remains seriously totalitarian. Totalitarianism in our time has collapsed from the top, but it has been seriously undermined by a process of education, rationalization and internationalization of outlooks and behaviour patterns on which much modern economic achievement depends. That process is still not badly described as 'modernization'.

References

Arendt, H.: *The Origins of Totalitarianism*, 3rd edn (London: Allen & Unwin, 1967; first published as *The Burden of Our Time*, 1951).

Burnham, J.: *The Managerial Revolution* (New York: John Day Co. Inc., 1941).

Eisenstadt, S. N.: *The Political Systems of Empires* (New York: Free Press of Glencoe, 1963).

Friedrich, C. J. and Brzezinski, Z. K.: *Totalitarian Dictatorship and Autocracy* (1956), 2nd edn rev. C. J. Friedrich (Cambridge, Mass.: Harvard University Press, 1965).

Huxley, A. L.: *Letters*, ed. G. Smith (London: Chatto & Windus, 1969).

Kamenka, E.: *Bureaucracy* (Oxford: Blackwell, 1989).

Machajski, J. W., as Volsky, A.: *Umstvennyi rabochii* (1905); trans. as *The Intellectual Worker* (New York: Interlanguage Literary Associates, 1968).

Popper, K. R.: *The Open Society and Its Enemies* (1945); 5th edn, 2 vols (London: Routledge & Kegan Paul, 1966).

Rizzi, B.: *The Bureaucratization of the World*, trans. A. Westoby (New York: Free Press, 1985; originally published as Part 1 of *La Bureaucratisation du monde*, 1939).

Shapiro, L. B.: *Totalitarianism* (London: Pall Mall, 1972).

Shils, E. A.: *Center and Periphery: Essays in Macrosociology* (Chicago, Ill.: University of Chicago Press, 1975).

Sturzo, L.: *Italy and Fascismo*, trans. B. B. Carter (London: Faber and Gwyer, 1926).

Voslensky, M.: *Nomenklatura: Anatomy of the Soviet Ruling Class*, trans. E. Mosbacher (London: Bodley Head, 1984).

Walker, M.: *The National Front* (London: Fontana, 1972).

Weber, M.: *Economy and Society: An Outline of Interpretive Sociology*, ed. G. Roth and C. Wittich, trans. E. Fischoff and others, 3 vols (New York: Bedminster Press, 1968; from 4th German edn of *Wirtschaft und Gesellschaft*, first published 1922).

—: *From Max Weber: Essays in Sociology*, ed. and trans. H. H. Gerth and C. W. Mills (New York: Oxford University Press, 1946).

Wittfogel, K. A.: *Oriental Despotism: A Comparative Study of Total Power* (New Haven, Conn.: Yale University Press, 1957).

Chapter 53

Trust and Social Capital

BO ROTHSTEIN

In the first edition of this *Companion*, John Dunn remarked that very few modern philosophers considered trust between people 'a central issue in the theoretical understanding of politics'. Dunn saw this as strange, considering the enormous interest that John Rawls's theory on social justice had invoked. How could a 'behind the veil of ignorance' contract work to organize the distribution of goods in society if the agents could not trust each other to honour the contract? Rawls's theory presupposes either that such mutual trust exists or that society can produce institutions that could be relied upon to intervene against agents who violate the contract.

A second remark by Dunn was that 'the modern social sciences have not been at their most impressive when it comes to analyzing either the condition in which human beings do or do not trust one another or the consequences of their success and failure in doing so' (Dunn 1996, p. 640). Remarks like this show how quickly things can change in the intellectual marketplace. Since Dunn wrote this, trust and its related concept *social capital* have moved from intellectual obscurity to become a central topic of enquiry in the social sciences. To a large extent, this is due to one book, namely *Making Democracy Work*, published in 1993 by the American political scientist Robert D. Putnam in collaboration with Robert Leonardi and Raffaella Nanetti. The reasons for the success of the book were many, but its main thrust was to show that what 'made democracy work' was the amount of social capital and trust in society (Putnam et al., 1993).

Thanks to modern database technology, it is nowadays possible to get numerical measures of what social scientists are interested in. The Institute for Scientific Information (www.isinet.com) collects yearly information about scholarly articles published in about 1800 international social science journals. In 1993, only 15 published articles mentioned 'social capital' in their abstracts. In 2005, this number had increased to no less than 403. For 'trust' the increase goes from 329 to 1926. This indicates an explosive increase in the interest in these two concepts during this relatively short period of time and implies that Dunn's comment above needs to be reserved to how we should account for this change.

This interest in the theory of social capital and the importance of trust has not been confined to any single discipline. In addition to political scientists one will find, for example, historians, economists, sociologists, mathematicians, anthropologists, policy analysts, psychologists and political philosophers. The research field is also truly

multi-methodological with approaches such as psychological experiments, historical case studies, survey research, game theory and deductive mathematical logic (Ostrom, 2005).

It is worth mentioning that many important national as well as international policy organizations have shown a great deal of interest in this research. One example is the World Bank, which has posted a comprehensive documentation of research and case studies on its website to illustrate the importance of social capital for the development of democracy and policies against poverty (cf. Woolcock, 2001).

Only time will tell whether the theory on social capital, like so many other theories in the social sciences, is a dead-end street, a fad, or is of enduring value. With hindsight, it seems as though most theories in the social sciences end up like the vine-covered temples in the jungles of Central America – beautiful, and truly impressive structures, but abandoned. However, as for now, it seems clear to me that the theory of social capital deserves serious consideration as a significant addition to our conceptual toolbox. A parallel may perhaps be drawn with human capital, a concept introduced in the early 1960s to explain differences in growth between different countries. Human capital was for about a decade also a disputed concept, but is now part of the standard repertoire in many social sciences.

Explaining the Growth of a New Research Industry

There are many reasons for why social capital and trust has gained such great interest. One is simple, namely how the great variation in the level of social trust and social capital between different countries can be explained. For example, in countries such as Denmark, Norway and the Netherlands, around 65 per cent of people state in surveys that they believe that in general 'most other people can be trusted', while in countries such as Brazil, the Philippines and Turkey, it is only around 10 per cent who answer that they believe that in general one can trust other people (Delhey and Newton, 2004). A second question is how stability and change over time can be explained. In a much-discussed book, Robert Putnam has claimed that a 'collapse' of social capital has occurred in the United States since the 1960s (Putnam, 2000). This decline of social capital seems, however, not to have occurred in other Western countries such as Britain, Germany and the Scandinavian countries (Hall, 1999; Offe and Fuchs, 2002; Rothstein and Stolle, 2003a).

The second reason for the increased interest is probably that, to the extent that social capital and trust can measured in surveys, it is positively correlated to a large number of political, social and economic conditions that most people think are normatively very desirable.[i] For example, countries (or regions) with high levels of social trust also tend to have more economic growth, are more likely to be democratic and, if democracies, have better-performing democratic institutions (Putnam et al., 1993; Zak and Knack, 2001; Beugelsdijk et al., 2004). They also tend to have less corruption, more social and economic equality and a population whose subjective well-being is higher (Bjørnskov, 2003; Uslaner, 2004; Rothstein, 2005; Helliwell, 2006). This implies that with a high level of social trust, the best of both worlds is possible – economic prosperity goes together with a reasonable well-functioning democracy and a comparatively fair distribution of resources (Fukuyama, 1995; You, 2006). If in addition to these aggregate measures the individual

level is considered, this list of positive correlations between social trust and ‘good things’ will become quite long – education, health, income, tolerance towards minorities, generosity, etc. (Putnam, 2000; Woolcock, 2001; Krishna, 2002; Uslaner, 2002). While we are still lacking a great deal of knowledge about how the causality between social trust/social capital and all these normatively desirable social conditions operate, the amount of ‘positive correlations’ have clearly spurred a great deal of research.

It is, however, not only these empirical correlations that have led to this increased interest. From a theoretical point of view, social trust has gained interest because of the problem known as social dilemmas. This problem, also known in non-cooperative game theory as ‘multiple equilibria’ (or the problem of collective goods, or the ‘tragedy of the commons’) is the following. Agents acting from a utility-based script can reach radically different outcomes when it comes to the level of social/economic efficiency because without social trust, it is difficult to reconcile individual and collective rationality. Even if everyone realizes that co-operation would be beneficial for all, this co-operation will only come about if the agents trust that (almost all) other agents are going to co-operate (Rothstein, 2005). The reason is well known: the collective good that is going to be produced demands that (almost) everyone co-operates, but if the agents don’t trust that the other agents will co-operate, it makes no sense to make co-operation your individual strategy. The reason for this is, first, that co-operation is usually costly for the individual and, secondly, that the collective good that is going to be produced usually demands that (almost) all agents choose to co-operate. Thus, even if the individual agent is willing to take the risk that the resources she pays for co-operation will be wasted, it still makes no sense to choose to co-operate if one is not convinced that (almost) all other agents are also going to co-operate because the good that is going to be produced will not come into existence (Ostrom, 1999).

It is thus only if the agents can trust that (almost) all the other agents will co-operate that they may reach an equilibrium that is beneficial for all. Lacking this trust in the willingness of others to co-operate, the group (or society) can as well fall into a Hobbesian ‘short, brutish and nasty’ social trap in which everyone is worse off than if they had chosen to co-operate. Since trust in other agents is hard to create once the other agents have acted deceitfully, the group (or society) usually cannot escape from such a social trap even if all the individual agents would prefer to do so (Hardin, 1968). This is the reason why interpersonal trust and collaborative social connections can be seen as a form of (social) capital, because they enable groups (or whole societies) to accomplish beneficial tasks that they otherwise would not have been able to do (Coleman, 1990; Miller, 1992; Bardhan, 1997; Binmore, 2004). For example, most agents in a corrupt system may well understand that they would all be better off if they stopped demanding and paying bribes. However, if they do not trust that the agents also will refrain from corruption, it makes no sense to be the only agent that acts honestly in an otherwise thoroughly corrupt system (Lichbach, 1997, p. 1151; Ostrom, 1999).

Different Conceptualizations of Trust

A central issue in this discussion is how trust and social capital should be conceptualized and defined. The discussion ranges from those who want to keep trust within a

rationalistic and utilitarian framework to others who define trust as a moral orientation. The first has been labelled by Russell Hardin, 'encapsulated trust', and its central idea is that trust is cognitive and based on interest. 'As a rule, we trust only those with whom we have a rich enough relationship to judge them trustworthy, and even then we trust only over certain ranges of action' (Hardin, 2006, p. 18). For example, I do not generally trust the mechanic who fixes my car; I trust him only insofar as I have correct information about his ability to fix my car. In other respects, I may think that he is utterly untrustworthy. In this line of reasoning, there is no such thing as 'general trust in other people' as usually asked about in, for example, the World Values Study surveys, because it is impossible to have information about all of those people in all types of possible situations that would make such trust rational. The conclusion, according to this rationalist theory, is that I trust people only if I have reason to believe that it is *in their own interests* to behave in a trustworthy manner towards me (Hardin, 2002, ch. 1).

I believe there are two reasons to criticize this strictly rationalist and utilitarian conceptualization of trust. The first is that if trust is only based on interest, it would become a victim to what in game theory is known as the problem of 'backward induction'. The reason is that the optimal strategy for the rational utility-maximizing A in his relation with B would be to feign trustworthiness in a number of initial transactions of minor value. In so doing, A hopes that B would eventually entrust him with something really valuable, but when that finally happens, it becomes rational for A to betray B's trust. However, if B's capacity to trust is also of the self-interested utility-maximizing kind, he would reason that when A starts to show that he is trustworthy with minor things, he only does so in order to ultimately swindle B when the stakes get high, and so B would not even start to develop a trusting relationship with A. The conclusion that follows is that within such a strict utilitarian and instrumentalist idea of trust, co-operation for mutual gain would be very rare, if not outright impossible (Bendor and Swistak, 2004, pp. 56f.). As Claus Offe has put it: if initial trust-building measures 'are perceived as deceptive signals serving strategic interests, the result will not be trust, but cynicism' (Offe, 1999, p. 43). A similar critique has been launched by Bernhard Williams against David Gauthier's strictly contractualist argument, according to which strictly self-interested agents could establish beneficial co-operation. If the agents are equipped with no more than self-interest, such co-operation is 'bound to unravel' (Williams, 2002, p. 91).

The utilitarian answer to this problem is that we co-operate with people we do not trust because of the existence of a number of institutions that would punish treacherous behaviour. Among those are courts and other government institutions (Hardin, 2002, pp. 108f.). This could be a reasonable solution to the problem of lack of interpersonal trust, but then we would have to trust that these institutions also can and will accomplish this task. For example, we have to trust that the judges or civil servants we entrust cannot be corrupted by the party they are going to supervise or punish and also that they do not have any other form of clientilistic relationship that would cast doubts on their impartiality (Barry, 1995; Schedler, 2004). The problem is that Hardin also claims that having this trust in government officials is impossible. The reason is that the control and incentive systems in government organizations are too complex for us to understand. We simply cannot know if the incentive structure in a government

institution is such that it would make it in the interest of the particular government official we depend on to act in a trustworthy way. Or, as Hardin writes, this information problem 'makes it highly unlikely that trust is an underlying factor in the views and expectations of most citizens' of government institutions (Hardin, 1999, p. 35). Therefore, we should not, if we are behaving 'sensibly' or 'intelligently', entrust anything that is valuable to us to public institutions (ibid., p. 23). However, if we cannot co-operate in a trustful manner with other citizens because we do not know enough about them (or more precisely, their incentive structure) and if we cannot trust government institutions to enforce trustworthy behaviour because we cannot be in possession of accurate information about how the incentive structure in such institutions is organized, I cannot see how social traps (such as for example endemic corruption) can be avoided, at least not if the stakes are important to us. The attempt to keep trust within a rational choice and utilitarian paradigm and strip the concept from all normative and moral connotations makes it into a very unlikely phenomenon, at least outside small circles of well-known friends and relatives. On a societal level, the result of the rationalistic approach is that trust becomes indistinguishable from prediction. However, the reason why trust cannot be the same as prediction is that it makes no sense for Mario Puzo's 'Godfather' to say that, 'I trust that the Barzino family will try to kill me tomorrow.' Obviously, trust relates to some kind of benevolent act, or to use Piotr Sztompka's definition: a 'bet on the future contingent actions of others' (Sztompka, 1998, p. 20).

At the other end of the spectrum are conceptualizations of trust that are 'non-cogntive', seeing trust as a moral orientation one may (or may not) have as an individual. In this perspective, trust is connected to things like having an optimistic outlook and believing in the moral rightness of giving strangers the benefit of the doubt (Becker, 1996b; Uslaner, 2002). While this definition of trust seems to be in line with a considerable amount of empirical research from various strands, it is problematic because it lacks a relational dimension. It simply cannot be moral virtue to trust people in a dangerous and hostile environment. To be taken advantage of or to have one's trust exploited for vice purposes can hardly be seen as a virtue in itself. On the other hand, as Becker has argued, while it may be a good thing to be on guard in 'Papa Doc' Duvalier's Haiti, 'it does not follow that its inhabitants should learn the sort of attitudinal insecurity that would make life in Sweden unnecessarily miserable – or socially volatile' (Becker, 1996a, p. 61).

A Relational Theory of Trust

As Bernhard Williams has argued, we need a conceptualization of trust that does not reduce it just to an intrinsic moral value or to a pure instrumental one (Williams, 2002, p. 90). My argument is that such a societal conceptualization of trust that lies between the cognitive-rational and the non-cognitive individualistic moral positions can be found. The starting point is a simple claim, namely that one's trust in other people depends on what one thinks these others are likely to do if entrusted with something of value. This information may very well be fragmentary or incomplete, but agents simply have to make do with whatever rudimentary information they have about the moral standard of 'other people' in the society in which they live. In what is known as

'evolutionary game theory' the idea is that agents adjust their expectations of other people to their 'history of play', which is 'what other agents have done in the past' (Young, 1998, p. 9). Social trust is therefore different from the Hardin type of personal trust based on accurate information about specific individuals. Instead it can be understood as historically established 'mental models' of what can be expected when you deal with 'most people' in your society (Denzau and North, 1994). In such a relational theory of trust, social capital can be seen as an example of what Douglass North has called 'informal institutions', which is an historically established system of generally held beliefs about the behaviour of others (North, 1990; 1998). The effects of such an informal institution can be the following: in a group (or society) where the 'common knowledge' is that in general most people can be trusted, transaction costs will be lower and many forms of mutually beneficial co-operation will therefore take place that would not have been possible if social trust was lacking (Svendsen and Svendsen, 2003; Bendor and Swistak, 2004). For example, in economic relations, lack of social trust will limit transactions between economic agents to people of the same ethnic clan or tribe while excluding members of disfavoured or unknown groups, thus hindering economic efficiency (Rose-Ackerman, 2004, p. 195).

Recent work by Nobel Laureate Robert Aumann has stressed this 'common' part of what is usually meant by 'common knowledge' in this discussion. Aumann labels this 'interactive rationality', by which he means that one should take into account not only that all players may be rational, but that when deciding 'how to play' one takes into account the other players' rationality as well. This implies that social trust should be seen as a relational phenomenon – the reason you may believe that most other people can be trusted is because you also believe that they think that people like you can be trusted. Thus, social trust should not be understood only as what the individual thinks about her own moral orientation, but also what she believes that 'other people' think about hers (and all other people's) trustworthiness. Thus, 'I will believe that you can be trusted if I also believe that you believe that I can be trusted'. This has important implications because it shows the indeterminate nature of standard game theory that builds only on the idea that individuals will act so as to maximize pay-offs. To quote Aumann (and his co-author Dreze):

> if one is given only the abstract formulation of a game, one cannot reasonably hope for an expectation and optimal strategies. Somehow, the real-life context in which the game is played must be taken into account. The essential element in the notion of context is the mutual expectations of the players about the actions and expectations of the other players. (Aumann and Dreze, 2005, p. 9)

Thus, the outcome of social and economic interactions depends on how the 'real-life context' somehow has constructed the 'mutual expectations', for example the expectations that the other players can be trusted, or not. If this is seen from the empirical horizon, one can of course debate at length what type of social phenomena the general trust question used in the World Values Study survey measures on this account. Based on this relational theory of social trust as a form 'mutual beliefs', as well as the idea of 'interactive rationality', I agree with Delhey and Newton that when people answer the question whether they believe that 'most other people can be trusted', this can be

interpreted as their evaluation of the moral standard of the society in which they live (Delhey and Newton, 2004). Logically, if most people think that most people in their society will behave in an honest way, the individual agent who enters into a transaction with someone whom for her is unknown, has less reason to fear becoming a victim of treacherous or exploitative behaviour. Therefore, co-operation between people who do not have personalized knowledge about each other's incentive structure will be more common in a society with a high level of social trust. This does not imply that in a society with a high level of social trust, people will entrust complete strangers with very valuable assets without having some other reassurance against being exploited. Instead, it is more reasonable to think that in such a society, people may buy a used car from someone who does not belong to their ethnic tribe, hire a person to work in the small business who is not from their own extended family, or rent out their house while on a sabbatical to someone who does not belong to the same academic network (or clan). It is also likely that they will enter into many economic exchanges without having to pay for the service of a law firm or have other similar transaction costs. It is true that in many cases such co-operation is backed up by more formal institutions, such as the existence of an impartial 'rule of law' system. However, empirical work shows that economic agents in societies with a high degree of mutual and beneficial economic co-operation hardly ever make use of these institutions or even think about using them. Instead, trustful co-operation is generated by informal institutions (Farrell and Knight, 2003, p. 560). Co-operation and honesty can in some societies simply be taken for granted and in the rare occasions when agents behave dishonestly, other means than relying on formal institutions are used. Still, the benevolent informal institutions may have come about because of the existence of trustworthy formal institutions, which implies that the informal institutions exist 'in the shadow' of formal ones.

From a comparative perspective, there are thus good reasons, theoretical as well as empirical, for increasing our ability to explain the huge variation in social trust between different countries (and regions). It should be emphasized that the huge variation in social trust between countries that (again) correlates with a great number of other important variables, have a number of theoretical implications. First, the type of very general and functionalist theories that have often been used in economics and other disciplines will not work. It is simply not the case that a society by some automatic process will produce the type of informal (or formal) institutions it needs for achieving optimal outcomes and/or avoiding the social trap. On the contrary, as Douglass North has argued, 'historical experience makes clear that efficient institutions are the exception' (North, 1998, p. 494). Moreover, it is not the case that economic competition between rational agents will weed out inefficient informal institutions and replace them with more efficient ones, since it is 'impossible to reconcile this argument with the historical and contemporary record' (ibid., p. 493). As Gary Miller has argued, the major lesson we should take from game theory is not about strategy or that agents are rational, but that we should expect 'dysfunctional results from individual rationality' (Miller, 2000, p. 540). Thus, what we need to know are things like why corruption in Denmark is lower than in Nigeria, social trust in Finland higher than in Romania, endless vendettas more common in rural Albania than in Minnesota and why the informal social institutions guiding market transactions in Mexico are different from those in Canada.

Contemporary Political Philosophy and Social Capital

What is the potential for an increased cross-fertilization between political philosophy and the discourse on social capital? First, consider Dunn's argument that Rawlsian-type theories of justice ultimately rely on trust in the impartiality of government institutions that implement the contract established behind the 'veil of ignorance'. A central question in political philosophy is the scope of such impartiality, and to what extent it is possible or even desirable (Young, 1993; Barry, 1995; Mendus, 2002). A second question about where social capital/trust and political philosophy intersect concerns socio-economic equality as well as equality of opportunity (cf. Mason, 2006). There seem to be good empirical as well as theoretical reasons why equality should be positively related to social capital and trust. First, the countries that score highest on social trust also rank highest on both types of equality – the Nordic countries, the Netherlands and Canada. Theoretically, it seems logical that in countries with high levels of inequality, trust and social capital would not thrive. The rich and the poor in a country with a highly unequal distribution of wealth may live next to each other, but their lives do not intersect. Their children attend different schools, they use different healthcare services and, in many cases, the poor can't afford either of these services. The rich are protected by both the police and private guards, while the poor see these as their natural enemies. In such societies, neither the rich nor the poor have a sense of shared fate with each other and we should therefore expect trust and social capital to be low (Rothstein and Stolle, 2003b; Rothstein and Uslaner, 2005).

Given these obvious arguments, one could have expected that equality (in either form) should have been high on the agenda in the literature on social capital and trust. This is not, however, the case. For example, in Robert Putnam's analysis of 'what killed civic engagement' in the United States, increased inequality is not mentioned as one of the six causes he presents (Putnam, 1995, pp. 359ff. and ch. 15). Moreover, among the seven policy prescriptions for increasing social capital in the USA that he advocates, none touches upon increasing any form of equality (ibid., ch. 24). This is all the more surprising since the decline of social capital that Putnam finds in the United States seems to be suspiciously related in time to a dramatic increase in economic inequality (Neckerman, 2004).

The same conspicuous omission can be seen in the Russell Sage Foundation's large project on trust: among the fifty-four chapters in the four edited volumes, none is about economic inequality or equality of opportunity and none of the volumes has an index entry on equality or inequality (Braithwaite and Levi, 1998; Cook, 2001; Ostrom and Walker, 2003; Hardin, 2004). The same goes for the three monographs that this project has produced (Hardin, 2002; Tyler and Huo, 2002; Cook et al., 2005). It thus seems that there is much to be done to connect the discussion in political philosophy about (various types of) equality with social capital and trust.

A third area for more cross-fertilization concerns the idea of deliberative democracy. In her analysis of trust, Barbara Misztal states that 'above all, trust, by keeping our mind open to all evidence, secures communication and dialogue' (Misztal, 1996, p. 10). Whether the argument for deliberative democracy stems from an interest in handling the problem raised by the social choice theory or voters' lack of knowledge, it seems

meaningless to enter into a deliberative discourse if one is convinced that the other side is fundamentally untrustworthy (cf. Mackie, 1998; Williams, 2002, pp. 93ff.). The central idea behind deliberative democracy is built on the notion that those involved are prepared not to be obdurate in their opinions but are rather willing, in light of reasonable arguments and evidence, to change their original positions. Thus, the participants in a deliberate decision-making process must believe that the other actors involved will come to the deliberative process with honest intentions (Warren, 1999). If one party instead presumes that the other actors are just lying, or that they are not prepared to listen to and deliberate the worth of her arguments, and that they are unwilling to accept changing their original opinions no matter what evidence or arguments are presented, it becomes meaningless to carry on the deliberative process. As David Miller has argued, a deliberative decision-making process, ‘depends on the level of trust that exist in the deliberative body; people will tend to behave in a democratic spirit to the extent that they believe that others can be trusted to behave likewise’ (Miller, 2003).

Finally, both social capital and trust have from the very start been closely connected to theories about civil society. It has, for example, been the main thrust of Robert Putnam’s argument that it is people’s activity in various voluntary associations and informal networks that produces social capital and interpersonal trust. This idea has not fared well when confronted with empirical research. The main result from the massive amounts of survey research that has been carried out is that activity in voluntary associations does not produce social trust. Instead, social capital and trust seem to flourish when corruption is low, and when government institutions are trustworthy and can implement policies that enhance various forms of equality (for overviews of this research, see Stolle, 2003; Delhey and Newton, 2004; Rothstein, 2005). Another problem with the civil society thesis is that not all voluntary associations are benevolent organizations and that there can be ‘bad civil society’ (Levi, 1996; Chambers and Kopstein, 2001). For example, Sheri Berman has pointed out that the Nazi takeover of power was considerably eased by the extensive system of voluntary associations in Germany at the time (Berman, 1997). On the other hand, there seems to be some historical and aggregate evidence that at least some civil society organizations can play a vital role in fostering norms and activities that are important in a well-functioning democracy (Cohen and Rogers, 1993; Cohen, 1999). The discussion in political philosophy about the importance of civil society ought to confront this problem and try to specify under what conditions this sector will become an asset for democracy and social well-being – or, in other words, when such associations translate into social capital.

Note

i Since 1981, The World Values Study has done four worldwide surveys in more than 60 countries in which what has become known as the ‘standard question’ on social trust has been used. The formulation (in English) of the question is: ‘Generally speaking, would you say that most people can be trusted or that you need to be very careful in dealing with people?’ The respondent is given three alternatives: (1) Most people can be trusted. (2) Need to be very careful. (3) Don’t know. See www.worldvaluessurvey.org

References

Aumann, R. J. and Dreze, J. H.: 'When all is said and done: how should you play and what should you expect?' (Jerusalem: Center for the Study of Rationality, Hebrew University, 2005).

Bardhan, P.: 'Corruption and development: a review of the issues,' *Journal of Economic Literature*, 35, 3 (1997), 1320–46.

Barry, B.: *Justice as Impartiality* (Oxford: Oxford University Press, 1995).

Becker, L. C.: 'Trust as noncognitive security about motives', *Ethics*, 107, 1 (1996a), 44–61.

—: 1996b. 'Trust as noncognitive security about motives', *Ethics*,

Bendor, J. and Swistak, P.: 'The rational foundation of social institutions', in *Politics from Anarchy to Democracy*, ed. I. L. Morris, J. A. Oppenheimer and K. E. Soltan (Stanford, Calif.: Stanford University Press, 2004).

Berman, S.: 'Civil society and the collapse of the Weimar Republic', *World Politics*, 49, 3 (1997), 401–29.

Beugelsdijk, S., de Groot, H. L. F. and van Schaik, A. B. T. M.: 'Trust and economic growth: a robustness analysis', *Oxford Economic Papers*, 56 (2004), 118–34.

Binmore, K.: 'Reciprocity and the social contract', *Politics, Philosophy and Economics*, 3, 1 (2004), 5–35.

Bjørnskov, C.: 'The happy few: cross-country evidence on social capital and life satisfaction', *Kyklos*, 56, 1 (2003), 3–16.

Braithwaite, V. and Levi, M., eds: *Trust and Governance* (New York: Russell Sage Foundation, 1998).

Chambers, S. and Kopstein, J.: 'Bad civil society', *Political Theory*, 29, 6 (2001), 837–65.

Cohen, J. L.: 'Trust, voluntary associations and workable democracy: the contemporary discourse of civil society', in *Democracy and Trust*, ed. M. E. Warren (Cambridge: Cambridge University Press, 1999).

Cohen, J. and Rogers, J.:'Associations and democracy', *Social Philosophy & Policy*, 10, 2 (1993), 282–312.

Coleman, J. S.: *Foundations of Social Theory* (Cambridge, Mass.: Harvard University Press, 1990).

Cook, K. S., ed.: *Trust in Society* (New York: Russell Sage Foundation, 2001).

Cook, K. S., Hardin, R. and Levi, M.: *Cooperation without Trust?*, The Russell Sage Foundation series on trust, vol. 9 (New York: Russell Sage Foundation, 2005).

Delhey, J. and Newton, K.: *Social Trust: Global Pattern or Nordic Exceptionalism* (Berlin: Wissenschaftszentrum Berlin für Socialforschung, 2004).

Denzau, A. T. and North, D. C.: 'Shared mental models: ideologies and institutions', *Kyklos*, 47 (1994), 3–31.

Dunn, J.: Trust', in *A Companion to Contemporary Political Philosophy*, ed. R. E. Goodin and P. Pettit (Oxford: Blackwell, 1996).

Farrell, H. and Knight, J.: 'Trust, institutions, and institutional change: industrial districts and the social capital hypothesis', *Politics & Society*, 31, 4 (2003), 537–66.

Fukuyama, F.: *Trust: The Social Virtues and the Creation of Prosperity* (New York: Free Press, 1995).

Hall, P. A.: 'Social capital in Britain', *British Journal of Political Science*, 29 (1999), 417–61.

Hardin, G.: 'The tragedy of the commons', *Science*, 612 (1968), 1243–68.

Hardin, R.: 'Do we want trust in government?', in *Democracy and Trust*, ed. M. E. Warren (New York: Cambridge University Press, 1999).

—: *Trust and Trustworthiness* (New York: Russell Sage Foundation, 2002).
— ed.: *Distrust* (New York: Russell Sage Foundation, 2004).
—: *Trust – Key Concepts in the Social Sciences* (Cambridge: Polity, 2006).
Helliwell, J. F.: 'Well-being, social capital and public policy: What's new?', *Economic Journal*, 116, 510 (2006), C34–C45.
Krishna, A.: *Active Social Capital Tracing the Roots of Development and Democracy* (New York: Columbia University Press, 2002).
Levi, M.: 'Social and unsocial capital. A review essay of Robert Putnam's *Making Democracy Work*', *Politics & Society*, 24, 1 (1996), 45–55.
Lichbach, M. I.: *The Co-operator's Dilemma* (Ann Arbor, Mich.: University of Michigan Press, 1997).
Mackie, G.: 'All men are liars: is democracy meaningless?', in *Deliberative Democracy*, ed. J. Elster (New York: Cambridge University Press, 1998).
Mason, A.: *Levelling the Playing Field: The Idea of Equal Opportunity and Its Place in Egalitarian Thought* (Oxford, New York: Oxford University Press, 2006).
Mendus, S.: *Impartiality in Moral and Political Philosophy* (Oxford: Oxford University Press, 2002).
Miller, D.: 'Deliberative democracy and social choice', in *Debating Deliberative Democracy*, ed. J. S. Fishkin and P. Laslett (Oxford: Blackwell, 2003).
Miller, G. J.: *Managerial Dilemmas: The Political Economy of Hierarchy* (Cambridge: Cambridge University Press, 1992).
—: 'Rational choice and dysfunctional institutions', *Governance*, 13, 4 (2000), 535–47.
Misztal, B. A.: *Trust in Modern Societies* (Cambridge: Polity Press, 1996).
Neckerman, K., ed.: *Social Inequality* (New York: Russell Sage Foundation, 2004).
North, D. C.: *Institutions, Institutional Change and Economic Performance* (Cambridge: Cambridge University Press, 1990).
—: Where have we been and where are we going?', in *Economics, Values and Organization*, ed. A. Ben-Ner and L. Putterman (Cambridge: Cambridge University Press, 1998).
Offe, C.: 'How can we trust our fellow citizens?', in *Democracy and Trust*, ed. M. E. Warren (Cambridge: Cambridge University Press, 1999).
Offe, C. and Fuchs, S.: 'Decline of social capital? The German case', in *Democracies in Flux – The Evolution of Social Capital in Contemporary Society*, ed. R. D. Putnam (Oxford: Oxford University Press, 2002).
Ostrom, E.: 'Coping with tragedies of the commons', *Annual Review of Political Science*, 2 (1999), 493–535.
—: *Understanding Institutional Diversity* (Princeton, NJ: Princeton University Press, 2005).
Ostrom, E. and Walker, J., eds: *Trust and Reciprocity: Interdisciplinary Lessons from Experimental Research* (New York: Russell Sage Foundation, 2003).
Putnam, R. D.: 'Bowling alone: America's declining social capital', *Journal of Democracy*, 6, 1 (1995), 65–78.
—: *Bowling Alone: The Collapse and Revival of American Community* (New York: Simon & Schuster, 2000).
Putnam, R. D., Leonardi, R. and Nanetti, R. Y.: *Making Democracy Work: Civic Traditions in Modern Italy* (Princeton, NJ: Princeton University Press, 1993).
Rose-Ackerman, S.: 'Governance and corruption', in *Global Crises, Global Solutions*, ed. B. Lomborg (Cambridge: Cambridge University Press, 2004).
Rothstein, B.: *Social Traps and the Problem of Trust* (Cambridge: Cambridge University Press, 2005).
Rothstein, B. and Stolle, D.: 'Social capital in Scandinavia', *Scandinavian Political Studies*, 22, 1, (2003a).

—: ‘Social capital, impartiality, and the welfare state: an institutional approach’, in *Generating Social Capital: The Role of Voluntary Associations, Institutions and Government Policy*, ed. M. Hooghe and D. Stolle (New York: Palgrave Macmillan, 2003b).

Rothstein, B. and Uslaner, E. M.: ‘All for all: equality, corruption and social trust’, *World Politics*, 58, 3 (2005), 41–72.

Schedler, A.: ‘Arguing and observing: internal and external critique of judicial impartiality’, *Journal of Political Philosophy*, 12, 3 (2004), 345–62.

Stolle, D.: ‘The sources of social capital’, in *Generating Social Capital: Civil Society and Institutions in a Comparative Perspective*, ed. M. Hooghe and D. Stolle (New York: Palgrave Macmillan, 2003).

Svendsen, G. L. H. and Svendsen, G. T.: ‘On the wealth of nations: Bourdieuconomics and social capital’, *Theory and Society*, 32, 5–6 (2003), 607–31.

Sztompka, P.: ‘Trust, distrust and two paradoxes of democracy’, *European Journal of Social Theory*, 1, 1 (1998), 19–32.

Tyler, T. R. and Huo, Y. J.: *Trust in the Law: Encouraging Public Cooperation with the Police and Courts*, Russell Sage Foundation series on trust, vol. 5 (New York: Russell Sage Foundation, 2002).

Uslaner, E. M. *The Moral Foundation of Trust* (New York: Cambridge University Press, 2002).

—: ‘Trust and corruption’, in *Corruption and the New Institutional Economics*, ed. J. G. Lambsdorf (London: Routledge, 2004).

Warren, M. E.: ‘Democratic theory and trust’, in *Democracy and Trust*, ed. M. E. Warren (New York: Cambridge University Press, 1999).

Williams, B.: *Truth and Truthfulness* (Princeton, NJ: Princeton University Press, 2002).

Woolcock, M.: ‘The place of social capital in understanding social and economic outcomes’, *ISUMA – Canadian Journal of Policy Research*, 2, 1 (2001), 12–17.

You, J.-S.: ‘A comparative study of income inequality, corruption and social trust: How inequality and corruption reinforce each other and erode social trust’, Ph.D. dissertation, Cambridge, Mass.: Harvard University, Kennedy School of Government, 2006.

Young, H. P.: *Individual Strategy and Social Structure: An Evolutionary Theory of Institutions* (Princeton: Princeton University Press, 1998).

Young, I. M.: ‘Together in difference. Transforming the logic of group political conflict’, in *Principled Positions: Postmodernism and the Rediscovery of Value*, ed. J. Squires (London: Lawrence and Wishart, 1993).

Zak, P. J. and Knack, S.: ‘Trust and growth’, *Economic Journal*, 111, 470 (2001), 295–321.

Chapter 54

Virtue

WILLIAM A. GALSTON

The Revival of Interest in Virtue

Recent decades have witnessed a revival of interest in the virtues, spanning not only several scholarly disciplines but educators and the public as well. Inspired by G. E. M Anscombe's 1958 article 'Modern Moral Philosophy' (Anscombe, 1981), increasing numbers of philosophers have expressed dissatisfaction with moral enquiry bounded by debates between deontology and consequentialism. To the doubters, each of these standard approaches seems excessively focused on acts as opposed to agents, and neither seems fine-grained enough to capture of subtleties of moral experience. (For a summary of the state of this three-way debate, see Baron et al., 1997.)

Inspired by J. G. A. Pocock, historians have reconstructed a 'civic republican' tradition with roots in classical antiquity, a second flowering in the Renaissance, and important residua in America continuing at least through the Revolutionary era. This tradition, which understands virtue as citizens' involvement in self-rule guided by devotion to the public good, has had a marked impact on contemporary legal scholarship as well as on the historiography of political thought (Pocock, 1981; *Yale Law Journal*, 1988; Hirshman, 1990).

Within political science, defenders of liberal democracy have offered accounts that emphasize its dependence on virtuous citizens and not just on institutions that artfully arrange competing interests (for examples, see Walzer, 1980; Macedo, 1990; Galston, 1991; Dagger, 1997; Spragens, 1999; Gutmann, 2002). Critics of liberalism – including communitarians and certain kinds of feminists – have advanced arguments against theories that begin with fully formed adult agents and end in abstract rules, emphasizing instead two classic elements of virtue theory: social processes through which human beings are formed, and the capacity for responding appropriately to particular situations (Gilligan, 1982; Taylor, 1989).

It is true that rising interest in the virtues does not constitute a unified intellectual trend. The reasons that move political scientists and theorists to take virtue seriously are not the same as those that sparked the revival of virtue ethics within moral philosophy. And yet these trends may prove mutually reinforcing. Half a century ago, utilitarianism was the default position in moral philosophy. While the subsequent revival of deontology, inspired by the revisionary retrieval of Kantian thought, may

have begun as a philosophical debate, it proved in the end momentous for political theory. It is hardly inconceivable that virtue ethics may someday provide a philosophical foundation for 'virtue politics'. In the meantime, developments within political theory are important in their own right.

Virtue Ethics: What It Is

Much of modern first-order moral theory can be understood as a response to questions of the form, 'What should I do (in this situation)?' and 'How should I think about what I should do (in general)?' While no moral theory regards these queries as irrelevant, they are not the first order of business for virtue theory, whose animating concerns are rather, 'How should I live?' and 'What kind of person should I be?' That virtue ethics puts character before action does not necessarily mean that right action is defined solely in relation to good character. While some theorists of virtue have been willing to go that far, most have not: we can discern the wrongness of a dishonest act directly, not only through the prism of its corresponding virtue. If we could not, how could we preserve the necessary distinction between doing what is right and doing it for the right reasons or with the correct motives?

However this may be, the virtue ethicist defines the kind of person one should be and how one should live through the vocabulary of the virtues, understood in the most general terms as settled, durable dispositions to act (or react) in particular ways in situations calling for responses of that sort. For example, the honest person does not ask why s/he should act honestly and does not act dishonestly because doing so offers personal advantage. Honest persons retain their inner orientation towards honest deeds even when circumstances pressure or tempt them to act dishonestly.

The issue is not merely holding fast to one's inner disposition towards honesty, however, but also discerning what an honest person would do in a particular situation when in possession of the pertinent facts and acting effectively on the basis of that discernment. As Rosalind Hursthouse (1999) emphasizes, virtuous persons are more than well intentioned; they have the capacity to translate their dispositions into actions appropriate to specific circumstances. This implies the need for certain cognitive capacities that enable the honest person (and virtuous persons generally) to evaluate demanding situations in order to be able to act appropriately. Among other things, virtuous agents can select, from complex multidimensional circumstances, the elements that ought to be most important in determining our judgement, and they have the experience to anticipate the probable consequences of alternative courses of action. While consequences may not determine a virtuous person's response, they are rarely irrelevant.

For many virtue theorists, virtuous behaviour requires, not only cognitive capacities, but imaginative and emotional capacities as well. In many situations, one cannot determine the best course without being able to imagine oneself in the position of others, on the receiving end of one's contemplated act; or without caring about the consequences of one's action for them. Taken together, imagination and caring form the basis of the capacity for empathic identification, without which even the best of intentions may prove counterproductive in practice (Nussbaum, 1985).

Justifying the Virtues

Virtue is an abstract concept, of course; virtue ethics is challenged to offer and justify a specific conception of the virtues. One approach might be termed the common-sense strategy: we learn what the virtues are by observing those basic traits of character that nearly every society prizes, and their justification rests in the historical process of experimentation and revision through which societies come to embrace them. (Hume adopted a version of this strategy; for a contemporary example, see Walzer, 1987.)

A second strategy bases an account of human virtue on an understanding of what is higher than human beings: virtue is *imitatio dei*. The difficulty, notoriously, is that different philosophical and faith traditions offer competing conceptions of God. Aristotle's unmoved mover is contemplative; the God of Abraham, Isaac and Jacob is creative. For Jews, the imitation of God means not contemplation as an end in itself, but rather active participation in the ongoing process of Creation. On the moral level, Aristotle's 'great-souled' man is independent and proud; Moses and Jesus are humble. While St Thomas incorporated much of Aristotle's *Ethics* into Christian theology, he was compelled, in the name of humility, to draw the line against pagan pride.

Since Anscombe's seminal article, it has been fashionable to argue that because Judaism and Christianity have a 'law conception of ethics', the revival of virtue ethics requires us to set aside the Judaeo-Christian moral tradition, which revolves around concepts such as obligation. This thesis is overstated, notably in the case of Protestant Christianity. The famous question, 'What would Jesus do?', may not typically yield determinate answers and may be posed in circumstances that seem inappropriate, but it points towards the fact that for many Christians, moral excellence consists in striving to emulate the virtues of a being who walked on earth in human form, not simply in conformity to commandments.

A third strategy is to embed an account of the virtues in a specific account of human excellence, as Plato and Aristotle did, and ground human excellence in philosophical psychology. Aristotle argues as follows. In human society, different individuals perform a variety of roles (or, to use Aristotle's terminology, 'functions'). Each of these functions can be carried out well or poorly: we know the difference between a good carpenter and a bad carpenter, and we can trace this difference to the presence or absence of certain developed skills and traits of character. For example, a good carpenter must be precise; precision requires care and patience, whence the carpenter's maxim, 'measure twice, cut once'. Aristotle then asks: are we to suppose that while the carpenter has a definite function, which possesses its corresponding excellence, human beings as such do not? He poses a similar question in organic rather than social terms: 'Must we not assume that just as the eye, the hand, the foot, and each of the various members of the body manifestly has a certain function of its own, so a human being also has a certain function, over and above all the functions of his particular members?' (Aristotle, 1968, I, vii, 11). If so, he continues, the human function must inhere in what is distinctively human – neither physical existence, sentience, the appetites, nor even emotions such as fear, all of which are shared with other species, but rather the human capacity for theoretical and practical reason, and for activities guided by the exercise of reason.

This argument does not imply an arid rationalism: like our thoughts and actions, our passions and emotions can be more or less reasonable, that is, more or less in conformity with what reflection suggests are their appropriate bounds. What is distinctively human about our passions and emotions is their interpenetration with reason. The courageous man is not expected to be without fear, but rather fearful when and to the extent that reasoning about the nature and occasions of fear permits. Indeed, fearing too little is just as mistaken as fearing too much; Aristotle goes so far as to suggest that insensitivity to fear in the face of what is genuinely fearful may be regarded as a form of madness.

This strategy is no stronger than the account of the soul on which it rests. Some wonder whether the classical tripartite distinction between the soul's appetitive, spirited and rational dimensions is true to the facts of human experience; others reject the Platonic–Aristotelian hierarchy, which places rationality at the top; still others argue that classical philosophical psychology cannot be detached from a (discredited) teleological account of nature and the cosmos. Still, Aristotle's argument remains alive today, descriptively and analytically, among moral philosophers.

From Ethics to Politics: Fostering the Virtues

Aristotle argued that the virtues are not innate but must be fostered through training and education. More recently, Francis Hutcheson and others in the Scottish Enlightenment tradition have claimed that we are born with an innate moral sense or with moral sentiments, while some sociobiologists contend that the tendency towards social co-operation and even altruism has a basis in evolution. Despite these differences, there is widespread agreement that even if the virtues are not inscribed on a motivational *tabula rasa*, they must at least be cultivated and refined.

How and where? Aristotle asserted that it is the responsibility of the state, acting through public law, to make citizens virtuous. Indeed, no form of government can be judged satisfactory if it fails to do so. While moral education is important, it cannot succeed in the absence of pre-existing good habits, which only take root within a framework of well-crafted legislation. To be sure, other influences, notably the family, shape the moral orientation of the young. But even within the same political community, families are likely to diverge in their understanding of the virtues that parents should transmit to their children. And even when individual families have a sound understanding of virtue, they will experience difficulty educating their children if the norms and practices of the surrounding community contradict the parents (Aristotle, 1968, X, ix, 6–10).

Aristotle's proposal for a politics of virtue is exposed to a number of potential objections. In the first place, he may be accused of overestimating the formative efficacy of public law and underestimating the potential impact of other social institutions. In fairness, he did stress the power, short of legal compulsion, that fathers can exert over their children, not to mention the ties of 'natural affection'. And unlike classical antiquity, when most education was a private function, political communities today assume that public education to promote socialization as well as cognitive skills is part of their core responsibility. Still, one might argue, involvement in economic activities, in associations standing between families and the polity, in religious practices, and in politics

itself, might well have larger and more beneficial effects on character formation than Aristotle believed. Or so many postclassical authors have argued (for an assessment of these claims, see Kymlicka and Norman, 1994).

Second, some critics of Aristotle have contended that promoting virtue is beyond the rightful competence of governing institutions. While Greek thinkers did not draw a clear line between public and private or offer systematic theories of limits to state power, such distinctions lie at the core of the liberal tradition. Accounts of the proper location of moral education, then, are embedded in broader questions of political theory.

Finally, it is possible to advance a more pluralistic account of virtue than Aristotle was willing to consider. 'Pluralism' does not mean 'anything goes'. Pluralists insist on the distinction between good and bad character and can even acknowledge the gap between excellence and mediocrity in virtue. Nonetheless, pluralists deny that virtue rises to a single ideal of human development. While great generals, creative artists and religious figures may not possess fully developed rational–contemplative virtues, they are not inferior in excellence to the philosophers Aristotle celebrated as the peak of human virtue. If so, no matter how and where education in the virtues may be conducted, it would have to be far more capacious and less directive than the monistic strategy Aristotle recommended.

Intrinsic Virtue and Instrumental Virtue

To the extent that virtue is seen as a part of general human good or excellence, it is not for the sake of anything else but rather is intrinsically good, an end in itself. And it is categorical rather than hypothetical: the orientation towards the human good is not optional. But as Aristotle's argument itself shows, there are many circumstances in which certain virtues must be understood as instrumental rather than intrinsically good, and as hypothetical rather than categorical. If you wish to be a good carpenter, you must possess particular excellences, but being a carpenter is not ordinarily a requirement of virtue or of morality as a whole. More than that: there are differences between an individual's virtues *qua* carpenter and the virtues inherent in other functions that the individual is called on to perform. These sets of virtues may prove not only different but incompatible in specific circumstances (to act as a good father should, one may have to give less time to one's job as a carpenter than full excellence requires), and there is no reason to believe that the carpenter's virtues will always trump those of other roles.

In this context, civic virtue raises especially complex issues. On the one hand, if humans are social and political beings, then the virtues needed to live and act well with others are necessary for all, not optional in the way the carpenter's virtues are. While in modern circumstances we are not assigned occupations by law or tradition and can opt not to be carpenters, regardless of what our parents did, we cannot choose not to be citizens. (We may be able to choose which community or whose citizenship we wish to bear, but that is another matter altogether.) So if there is civic excellence or virtue, its attainment is not optional, wherever we may be.

On the other hand: even if we embrace a monistic account of the good, excellent or virtuous human being, we cannot do so for the good citizen. The reason is simple:

citizenship is defined in relation to regime-type. The attributes of good citizenship in a liberal democracy are not the same as for a monarchy or a communist regime. This raises an issue that is more than theoretical: the good human being and the good citizen are not necessarily the same, for all regimes or indeed any regime. The literature spawned by twentieth-century totalitarianism traced the sacrifices of friendship, family ties, honesty and intellectual integrity that loyalty to communist and fascist regimes typically required. To further their professional ambitions, writers, scientists and artists were compelled to set aside disciplinary standards and to assist in the repression of those who deviated from the party line. Loyal citizens of liberal democracies serving their country in times of war may find themselves called upon to act in ways that no decent human being would. The practice of citizenship can deform as well as develop the human soul.

The converse is also problematic: an individual's determination to behave in the manner thought to be required of a good human being can create deep conflicts with the existing political order (witness the fate of Socrates and, in our time, of conscientious dissidents within totalitarian regimes). The alleged incompatibility between Christian virtue and the civic requirements of self-government is one of the great themes of early modern political thought and leads to Rousseau's famous account of 'civil religion' – an effort to render Christianity compatible with republican citizenship – at the close of the *Social Contract*.

The possibility of a clash between civic and human virtue has led some thinkers (the Stoics in classical antiquity, Martha Nussbaum today) to embrace cosmopolitanism (Cohen, 1996). If I think of myself as a 'citizen of the world', then the gap between the particularism of loyalty to fellow citizens and the universalism of concern for fellow human beings vanishes. This move is exposed to two difficulties, however. It is hardly clear that particular loyalties lack moral justification or that universal obligations always trump them. In addition, as long as human beings are organized into separate political communities rather than a functioning world state, the species will be compelled to grapple with the claims of citizenship, which no vision of an idealized cosmopolitan future can wish away.

Civic Virtue in Liberal Democracies

In recent decades, most of the discussion of civic virtue has occurred in the theoretical and practical context of modern liberal democracy. At one pole of this discussion is the thesis that liberal democracy does not require a virtuous citizenry but is secured through institutions that artfully counterbalance interests and passions against one another. James Madison's most famous papers in the *Federalist* lay out this proposition. In a similar vein, Immanuel Kant went so far as to claim that the successful organization of republican government requires only the 'good organization of the state, whereby the powers of each selfish inclination are so arranged in opposition that one moderates or destroys the ruinous effects of the others'. The problem of sustaining a republic, he vividly concluded, 'can be solved even for a race of devils, as long as they are intelligent' (Kant, 1963). Madison was not willing to go that far, however; while virtue may be in short supply, he argued, it is not irrelevant. More recently, political scientists have

explored the cultural preconditions of liberal democracy (Almond and Verba, 1963) and have traced the link between effective public policy and the character of individual citizens (Wilson, 1985). Thomas Spragens speaks for many contemporary political theorists when he contends that, '[a] citizenry without public spirit, without self-restraint, and without intelligence accords ill with the demands of effective self-governance' (Spragens, 1986).

This convergence on the concept of civic virtue does not mean that contemporary theorists have reached consensus on a specific conception. There are several reasons for this ongoing disagreement. 'Liberal democracy' represents the fusion of two disparate lines of thought: the noun stands for a distinctive way of distributing and exercising political power, while the adjective points to principled limits on the scope of political power. Proponents of liberal democracy can disagree about the balance to be struck between these components and the priorities to be established in the event of tension between them. Some theorists (and activists) believe that liberalism has exacted too steep a price in the diminution of citizens' democratic political engagement: 'strong' democracy may require more Rousseau and less Locke or Madison than many liberal democrats can accept (e.g., Barber, 1984). Other theorists (and activists) believe that liberal limits on public power, and in particular the liberal distinction between public and private, have helped insulate economic and patriarchal power from needed political correction.

Even among theorists who are by and large comfortable with the fusion of liberal and democratic impulses, disagreements abound. As Andrew Sabl observes, liberal democratic theorists bring diverse concerns to bear on the task of construing civic virtue, yielding divergent enumerations of the virtues. It makes a difference whether one's focus is on social integration, anti-authoritarianism, deliberation, patriotism or antidotes for hyperindividualism (Sabl, 2005).

Understanding civic virtue as instrumental raises additional analytical difficulties. If we treat instrumentality as an empirical hypothesis, it is exposed to all the challenges inherent in conducting sound social scientific inquiry. For example, the issue will rarely if ever concern the civic effects of the pure presence (or absence) of particular virtue; it is implausible to believe that every citizen must be virtuous for the polity to survive (Callan, 2006). It will be, rather, a matter of more and less. Although the conjecture is surely plausible, is not easy to test a hypothesis of the form 'as civic loyalty diminishes, a liberal democracy will find it harder to raise the troops that national defense requires'.

This difficulty need not prove insuperable in every case. For example, we know the belief that political participation is a responsibility rather than a choice correlates strongly with performing participatory acts such as voting and answering a summons for jury duty, and we therefore have good reason to believe that as more and more citizens come to understand participation as a choice, *ceteris paribus* participation will decline. Still, we will not know everything we would like to know – for example, whether the curve describes a steady linear decline or reaches a tipping point at which statistically normal behaviour changes abruptly. There is some reason to believe that propensity to obey the law does have tipping points. If critical masses of drivers exceed the posted speed limits, or critical masses of taxpayers fail to declare all their income, then the remainder will be motivated to follow suit. Nor will we know the extent to

which the survival or health of a liberal democracy might be endangered by change of a particular magnitude. There is no reason to believe that the significant decline in rates of voting since the 1960s has called the survival of the United States into question, and the US criminal justice system seems able to function even with declining percentage of citizens showing up to serve on juries. At present, anyway, the best scholars can do is supplement available empirical findings with well-constructed thought experiments.

These considerations suggest a need to distinguish more sharply between the virtues required for the survival of liberal democracy (a reasonably objective criterion) and those required for its 'health', 'vitality' or 'flourishing' – criteria that are not only harder to assess but also more likely to smuggle contestable ideals of liberal democracy into its conceptual core. Although this distinction will not eliminate contestation outright, it should narrow the range of indeterminacy. One effort to define the civic core runs as follows.

First, liberal democratic citizens must be disposed to tolerate diverse ways of life – not necessarily to approve of them or even to regard them as reasonable, but certainly to refrain from repressing them with private or public force. Second, citizens must respect the rule of law – not to the extent of ruling out civil disobedience in every case, but with the presumption that they are to comply with laws duly enacted by legislatures and interpreted by the judiciary or suitably empowered administrative agencies. Third, citizens should be disposed to do their share to uphold the institutions without which they cannot hope to enjoy liberty and opportunity. Fourth, they should have at least a basic level of identification with, fellow-feeling for, their fellow citizens. Finally, they should be loyal to their political community, at least to the extent of not systematically subordinating its interests to those of other communities (Galston, 2006; for an even more parsimonious core, see Sabl, 2005).

Beyond this core of necessary virtues, a number of more expansive ideals of liberal citizenship may coexist. Indeed, one may conjecture that contestation among them will often serve liberal democracies well. The virtues of social integration and of anti-authoritarian individualism both abrade and need one another; and similarly for the virtues of privacy and participation. Liberal democracies, moreover, can easily accept a moral division of labour. Not everyone needs the steady courage of the citizen-soldier, the unstinting participation of the neighbourhood activist, or the balanced moderation of the civic conciliator. Ordinary citizens need not possess all the executive, legislative or judicial virtues to reach sound judgements about the performance of public officials. As democracies pool the partial wisdom of individuals to produce collective judgement, so they pool the partial virtues of individuals to yield the requisite virtues of the collectivity.

Are there intentional policies by which liberal democracies can increase the odds that in the aggregate, citizens will have the civic virtues needed to sustain the polity over time? The glib response is to point to the survival of liberal democracies as proof of the affirmative. A more serious response is to examine the hypothesis that the various venues of civic formation can be made to work better. After a generation of scepticism, evidence is mounting that, done right, school-based civic education can make a real difference (Galston, 2001). Concerning the effects of participation in voluntary organizations, a more nuanced conclusion may well be in order (Galston, 2004). Political participation may not have the positive consequences for civic virtue that many civic

republicans have hoped (Oldfield, 1990). We need much more work on the formative civic effects of different family structures and parenting strategies, and also of diverse faith communities. Studying civic virtue productively will require the kind of sustained collaboration between political theory and empirical political research that has been all too rare in recent decades.

References

Almond, G. and Verba, S.: *The Civic Culture: Political Attitudes and Democracy in Five Nations* (Princeton, NJ: Princeton University Press, 1963).

Anscombe, E.: 'Modern morality philosophy', reprinted in E. Anscombe, *Ethics, Religion, and Politics* (Minneapolis, Minn.: University of Minnesota Press, 1981).

Aristotle: *Nicomachean Ethics*, trans. H. Rackham (Cambridge, Mass.: Harvard University Press, 1968).

Barber, B.: *Strong Democracy: Participatory Politics for a New Age* (Berkeley, Calif.: University of California Press, 1984).

Baron, M., Petit, P. and Slote, M.: *Three Methods of Ethics* (New York: Oxford University Press, 1997).

Becker, L.: 'The neglect of virtue', *Ethics*, 85 (1975), 110–22.

Berkowitz, P.: *Virtue and the Making of Modern Liberalism* (Princeton, NJ: Princeton University Press, 1999).

Callan, E.: *Creating Citizens: Political Education and Liberal Democracy* (Oxford: Oxford University Press, 1997).

—: 'Galston's dilemmas and *Wisconsin v. Yoder*', *Theory and Research in Education*, 4 (2006), pp. 261–73.

Chapman, J. and Galston, W., eds: *Virtue: NOMOS XXXIV* (New York: New York University Press, 1992).

Cohen, J., ed.: *For Love of Country: Debating the Limits of Patriotism; Martha Nussbaum with Respondents* (Boston, Mass.: Beacon Press, 1996).

Crisp, R. and Slote, M., eds: *Virtue Ethics* (Oxford: Oxford University Press, 1997).

Dagger, R.: *Civic Virtues: Rights, Citizenship, and Republican Liberalism* (New York: Oxford University Press, 1997).

Darwall, S., ed.: *Virtue Ethics* (Oxford: Blackwell, 2002).

Foot, P.: *Virtues and Vices* (Berkeley, Calif.: University of California Press, 1978).

French, P., Uehling, T., Jr., and Wettstein, H. K., eds: *Midwest Studies in Philosophy XIII; Ethical Theory: Character and Virtue* (Notre Dame, Ind.: University of Notre Dame Press, 1988).

Galston, M.: 'Civic renewal and the regulation of nonprofits', *Cornell Journal of Law and Public Policy*, 13, 2 (2004), 289–404.

Galston, W.: *Liberal Purposes: Goods, Virtues, and Diversity in the Liberal State* (New York: Cambridge University Press, 1991).

—: 'Political knowledge, political engagement, and civic education', *Annual Review of Political Science*, 4 (2001), 217–34.

—: 'Signs of progress: the debate over civic education', in *Theory and Research in Education* 4, 3 (2006), 261–73.

Geach, P.: *The Virtues* (New York: Cambridge University Press, 1977).

Gilligan, C.: *In a Different Voice* (Cambridge, Mass.: Harvard University Press, 1982).

Gutmann, A.: 'Civic minimalism, cosmopolitanism, and patriotism: where does democratic education stand in relation to each?', in *Moral and Political Education: NOMOS XLIII*, ed. S. Macedo and Y. Tamir (New York: New York University Press, 2002).

Hirshman, L. R., ed.: 'Symposium on classical philosophy and the American constitutional order', *Chicago-Kent Law Review*, 66, 1 (1990), 1–242.

Hursthouse, R.: *On Virtue Ethics* (Oxford: Oxford University Press, 1999).

Kant, I.: 'Perpetual peace', in *Kant on History*, ed. L. W. Beck (Indianapolis: Bobbs-Merrill, 1963).

Kloppenberg, J.: 'The virtues of liberalism: Christianity, republicanism, and ethics in early American political discourse', in J. Kloppenberg, *The Virtues of Liberalism* (New York: Oxford University Press, 1998).

Kruschwitz, R. and Roberts, R., eds: *The Virtues: Contemporary Essays on Moral Character* (Belmont, Calif.: Wadsworth, 1987).

Kymlicka, W. and Norman, W.: 'Return of the citizen: a survey of recent work on citizenship theory', *Ethics*, 104 (1994), 352–81.

Macedo, S.: *Liberal Virtues* (Oxford: Oxford University Press, 1990).

MacIntyre, A.: *After Virtue* (London: Duckworth, 1981).

Nussbaum, M.: 'Finely aware and richly responsible: moral awareness and the moral task of literature', *Journal of Philosophy* 82 (1985), 516–29.

—: 'Aristotelian social democracy', in *Liberalism and the Good*, ed. R. B. Douglass, G. Mara and H. Richardson (New York and London: Routledge, 1990).

Oldfield, A.: 'Citizenship: an unnatural practice?', *Political Quarterly*, 61 (1990), 177–87.

Pincoffs, E.: 'Quandary ethics', *Mind*, 80 (1971), 552–71.

Pocock, J. G. A.: 'Virtues, rights, and manners: a model for historians of political thought', *Political Theory*, 9, 3 (August 1981, 353–68.

Sabl, A.: 'Virtue for pluralists', *Journal of Moral Philosophy*, 2, 2 (2005), 207–235.

Shils, E.: 'The virtue of civil society', in *The Virtue of Civility: Selected Essays on Liberalism, Tradition, and Civil Society*, ed. S. Grosby (Indianapolis: Liberty Fund, 1997).

Shklar, J.: *Ordinary Vices* (Cambridge, Mass.: Harvard University Press, 1984).

Slote, M.: *From Morality to Virtue* (New York: Oxford University Press, 1992).

Spragens, T. A., Jr.: 'Reconstructing liberal theory: reason and liberal culture', in *Liberals on Liberalism*, ed. A. Damico (Totowa, NJ: Rowman and Littlefield, 1986).

—: *Civic Liberalism* (Lanham, Md.: Rowman and Littlefield, 1999).

Statman, D., ed.: *Virtue Ethics* (Cambridge: Edinburgh University Press, 1997).

Swanton, C.: *Virtue Ethics: A Pluralistic View* (Oxford: Oxford University Press, 2003).

Taylor, C.: *Sources of the Self: The Making of the Modern Identity* (Cambridge, Mass.: Harvard University Press, 1989).

Wallace, J.: *Virtues and Vices* (Ithaca, NY: Cornell University Press, 1978).

Walzer, M.: 'Civility and civic virtue in contemporary America', in *Radical Principles* (New York: Basic Books, 1980).

—: *Interpretation and Social Criticism* (Cambridge, Mass.: Harvard University Press, 1987).

Yale Law Journal: 'Symposium: the republican civic tradition', *Yale Law Journal*, 97, 8 (1988), 1493–723.

Williams, B.: 'Persons, character, and morality', in *The Identities of Persons*, ed. A. Rorty (Berkeley, Calif.: University of California Press, 1976).

Wilson, J. Q.: 'The rediscovery of character: private virtue and public policy', *The Public Interest*, 81 (1985).

Chapter 55

Welfare

ALAN HAMLIN

The concept of welfare and the nature of the welfare state are central themes of the normative political debate. But the word 'welfare' identifies a particularly contested part of the conceptual landscape that has been much trampled by economists, philosophers and political theorists, as well as a wide variety of more practical politicians, policy analysts and social commentators. Each group might be conceived as engaged on the production of a map which charts the salient features of 'welfare' and places them in relation to other features of the terrain: 'rights', 'needs' 'equality', 'justice', 'government policy' and so on. Many maps have been produced but an inspection of these various maps might not convince the observer that all relate to the same landscape. Some of the apparent differences are no more than differences of emphasis or perspective, and might be thought of as differences in cartographic convention. Some result from simple confusions, but others are more foundational and reflect importantly different views of the world.

Even when the concept of welfare is clarified, the nature of the state's appropriate response to claims of welfare raises further problems. A 'welfare state' might be conceived as a state which views the welfare of its citizens as the primary claim on its policy making, or it might be conceived as a state which enacts particular 'welfare' policies. These two conceptions will not necessarily coincide, depending on the positive model of politics adopted. More generally the route taken through the theoretical discussion of the concept of welfare will be a major influence on the discussion of the appropriate notion of the welfare state.

In this chapter I shall provide both a discussion of some of the existing maps of welfare, and some discussion of the use of these maps to guide the normative political debate. The essay is organized in three further sections. The first is concerned with the structure and content of the concept of welfare and the issues raised in considering alternative concepts of welfare. The second is concerned with the politics of welfare and explores the use of concepts of welfare in political discussion. The arguments are drawn together in the final section.

The Structure of Welfare

I begin with a simple sketch of the standard economist's account of welfare, and consider a number of interpretations and criticisms and a variety of alternatives and embellishments. This way of proceeding does not presume that the simple economist's view is especially favoured. Indeed, in the caricature version presented here, it is both implausible and extreme. But it does have the merits of being relatively precisely drawn, and of identifying many of the key issues (Hausman and McPherson, 1996).

The economist's map of welfare focuses on three essential features: individual welfare, social welfare, and the relationship between the two. At the individual level, the standard economist identifies welfare with utility (Broome, 1991b,c and Sen, 1991 debate the use and meaning of 'utility'), and argues for a preference satisfaction theory of individual welfare. On this narrow account individual welfare (or utility) simply consists in the satisfaction of the individual's actual desires – whatever they may be. Of course, even such a narrow argument depends on interpreting preferences generally, so that we are not restricted to the simple rankings of alternative bundles of consumer goods familiar from introductory economics texts. Preferences must be understood to include preferences over alternative social arrangements, over alternative distributions of income; more generally, over alternative states of the world.

With a preference satisfaction theory of individual welfare on board, our simple economist turns her attention to social welfare. Here she makes two importantly distinct claims. First, that 'social welfare' is the ethical value or 'goodness' of the social state under consideration. And second, that social welfare depends only on individual welfares. The first of these claims is simply stipulative. Social welfare, in the standard economist's usage, is intended to identify the overall good of society, all things considered, and not merely an aspect of the good. With this in mind, the second claim is clearly very strong. It says that the good of society depends only on individual welfare. This is the claim labelled 'welfarism' (Sen, 1979). Welfarism together with the preference satisfaction theory of individual welfare defines the core of the mainstream economist's account of welfare. Each provides the starting point for further debate.

Individual welfare

Before exploring further, it is important to expose an ambiguity in the relationship between preferences, choices and welfare. On the one hand (the one sketched above), preferences may be conceived as being substantively exogenous characteristics of individuals, defined independently of the individual's choices. This then leaves the relationship between preference and choice for separate theorizing: preference may be one among many potential motivators of choice, but there can be no *a priori* guarantee that individual choice will directly reflect preference. In particular, it is meaningful to suggest that an individual might choose to do a when b was available, despite preferring b over a. This is the use of preference that connects directly with desires or wants.

On the other hand, economists sometimes use preference (specifically, revealed preference) to refer directly to choice, so that a preference function simply represents

individual choices, however those choices are motivated. In this usage, preferences are an analytic convenience rather than characteristics of the individual. To use preferences in this sense as the basis for welfare would be to elevate choice itself to normative significance. There may be some reason for such elevation, and I shall return to the point below, but it has no necessary connection with the satisfaction of underlying desires or wants. Throughout the remainder of this essay I shall use preference in the first of these senses.

Two further points of clarification are in order. First, the significance of satisfying preferences is normally taken to be the benefit that is thereby conferred on the individual whose preferences they are. This may seem obvious, but it does point to some potential pitfalls. Preferences may be satisfied in a formal way without benefit to the relevant individual – as when my grandfather's desire for me to marry was satisfied only after his death (or, less morbidly, only after his desires had changed). Alternatively, the benefit associated with the satisfaction of a preference may be achieved by means other than the satisfaction of that preference – as when the object of my desire can be perfectly simulated so that it is as if my desire were satisfied although, in fact, it is not. These pitfalls are of significance in some contexts, but I shall not pursue them here (Parfit, 1984).

The second point concerns the aggregation of welfare over time and the possibility of discounting future welfare. Of course, it is accepted that the uncertainty of the future may lead one to discount future benefits relative to present benefits, and that investment opportunities would lead one to discount material goods in the future relative to the present, but the question is whether a pure discount rate that is intended to operate on welfare itself after all uncertainty has been accounted for should be zero or positive. This debate continues and has major implications, but I shall not go into details here (Sen, 1967; Parfit, 1984; Broome, 1994).

The most obvious question to ask of any theory of individual welfare is whether welfare is intended as a complete description of an individual's good or, if not, how good and welfare are related at the individual level. The plausibility of any particular account of welfare will depend on the answer to this basic question. If welfare is identical with good, the simple preference satisfaction theory of welfare is clearly open to attack from positions which identify aspects of the good claimed to be unrelated to preference satisfaction: 'needs satisfaction', 'freedom' and so on. But if welfare is held to be only one amongst several aspects of the good, such criticisms are easily avoided, and the real challenges to the preference satisfaction theory of welfare are to justify the attention paid to this particular aspect of individual good, and to discuss the relationship between welfare and other aspects of the good.

One criticism of the standard economist's account sketched above is that it tempts the reader to slip from the narrow usage of welfare as utility to the broad use of welfare as individual good. Although there is nothing in the preference satisfaction theory of welfare that commits one to the view that welfare is identical to good at the individual level, the welfarism that often accompanies the preference satisfaction theory of welfare might suggest that this is, in fact, the view taken. However, an alternative is available, which combines a preference satisfaction theory of individual welfare with welfarism without involving a commitment to the identity of individual welfare and individual good. This possibility might be termed the anti-paternalist position (Dworkin, 1972).

The argument is essentially epistemic. While it is accepted that there are aspects of the good outside the satisfaction of preferences, it is argued that it is impossible to know what these aspects of the good require. Preference satisfaction is not the only aspect of the good, but it is the only aspect of the good that is conceptually knowable to another individual. Any attempt to impute good to an individual on evidence other than that individual's preferences must be in some sense paternalistic. A possible response to this anti-paternalist position is that some aspects of individual good are objective, and so may be known without reference to particular individuals. We may know that x is good for Anne simply in virtue of Anne being a person, even though we have no insight into Anne's mind or character.

Against this background, we may consider, very briefly, just three of the leading alternatives to the preference satisfaction theory of individual welfare: the informed preference theory, a theory based on needs, and a theory based on autonomy or freedom (Griffin, 1986; Brandt, 1982; Schwartz, 1982).

An informed preference theory holds that actual preferences may be a defective basis for individual welfare just in case the actual preferences are not those which the individual would hold after full consideration and if she was fully informed. Actual preferences may be simply mistaken, as in the case where I prefer brown bread to white bread because of a mistaken belief that their nutritional properties differ. Actual preferences may also be ill considered, as in the case where I prefer smoking to non-smoking without thinking through all the implications. The basic appeal of an informed preference satisfaction theory of welfare is that it eliminates these mistakes, and so grounds welfare on the true preferences of the individual rather than those she happens to perceive at any given time.

While this appeal is strong, it also provides a target for the anti-paternalist criticism. How are we to know an individual's informed preferences? One way out of this problem is to argue that while informed preferences are the fundamentally appropriate basis for welfare, actual preferences must be used as the only available guide to informed preferences. In this case, actual preferences will be accepted as the best available indicator of welfare, but the possibility of error will be built in to the analysis. A second escape route from the anti-paternalist argument is that at least some informed preferences are, in fact, objective and so are knowable in principle – one possibility here relates to individual needs.

Most modern accounts of needs stress that preferences and needs are categorically distinct, so that, for example, 'The concept of needs differs top and bottom from the concept of preferences' Braybrooke, 1987, p. 5), or 'Needs are not a subclass of desires. They are not, say, strong or widespread or central desires' (Griffin, 1986, p. 41; see also Wiggins, 1985). This seems clear provided that we are referring to actual preferences. I might need medical treatment without being aware of this need, so that I do not actually desire or prefer the relevant treatment. But such examples rely on the gap between actual preferences and informed and considered preferences. Is it plausible to claim that my fully informed and considered preferences may not incorporate a genuine need for treatment?

A negative answer suggests that needs are just those objectively identifiable aspects of an individual's informed preferences. If so, the question arises as to the relationship between needs and other informed preferences. Some argue that needs should have

priority over mere preferences or desires. But, at the individual level, it is difficult to defend this line of argument against the attack from the anti-paternalist argument, since the preferences and desires involved are informed. If individual A needs medical treatment and recognizes this need, but nevertheless prefers (on the basis of full information and full consideration) to forego that treatment in favour of some alternative, it is difficult to see that insisting that A's need be satisfied (and other informed desires sacrificed) would improve A's welfare overall.

The relationship between welfare and freedom or autonomy raises rather different issues. In the extreme, a freedom-based view might seem to deny the relevance of welfare altogether. What matters, in this view, is the individual's ability to act independently rather than the particular consequences of the actions taken. In more moderate views both freedom and the consequences of action might contribute to the individual good. In either case, what is significant is that freedom is valued intrinsically rather than instrumentally. A key question in this context concerns the appropriate method of conceptualizing freedom.

The standard distinction between positive and negative freedom is helpful here. Negative freedom simply requires the absence of coercion, and so choice or, more generally, voluntary action, is a direct indicator of freedom regardless of what is chosen or how the choice is motivated. The economist's second usage of (revealed) preference mentioned above connects with this view of the value of freedom. This view also suggests that expanding the range over which choice can be exercised will contribute to the good of the individual concerned regardless of the choices actually made. This is one aspect of the 'resourcist' position discussed by Dworkin (1981) and others, in which the extent of an individual's command over resources counts as an indicator of that person's ability to choose. The positive view of freedom, by contrast, would stress an individual's capabilities (see Sen, 1985a,b; 2002; Pogge, 2002; Nussbaum, 2003). In this context, capabilities indicate what an individual can do or can be, and so include elements that relate to characteristics of the individual – talents and disabilities, for example – and elements that relate to the resources and opportunities available to the individual.

At first sight it seems that any intrinsic evaluation of freedom must lie outside of the preference satisfaction theory of welfare, and this in turn suggests that welfare and freedom should be seen as two distinct aspects of the individual's overall good (Alkire, 2002). But if freedom is valued intrinsically, who values it? Presumably the benefit of freedom is a benefit to the person whose freedom it is, and, if this is the case, we might expect that person's fully informed preferences to reflect this benefit. Again, we could argue that the conceptualization of welfare as the satisfaction of fully informed preferences is capable of accounting for our common intuitions regarding the value of freedom, and maintaining the formal identity of welfare and good at the individual level.

The strategy of the preceding paragraphs should now be clear. If it is plausible to claim that x is good for individual A, where x may be needs satisfaction, freedom, justice, equality or whatever, it is equally plausible to claim that A's fully informed and considered preferences will account for this fact appropriately (Griffin, 1996, discusses the strategy of improving our moral beliefs). Indeed, it is difficult to see what else 'fully

informed and considered' could mean in this context. Furthermore, A's informed preferences will also identify the appropriate trade-off (if any) between the various components of the good. In this way, we can argue that the fully informed preference theory of welfare is capable of being extended to a plausible theory of personal good.

Welfarism and social welfare

The move from individual to social welfare raises a number of issues over and above those identified at the individual level. The famous Arrow theorem (Arrow, 1963) clearly constrains the interpretation of a social preference ordering, and the social setting also brings into play the relationship between social welfare and a more generally defined social justice (see, for example, Barry, 1989; 1995). The credibility of welfarism depends crucially on the interpretation of individual welfare. If individual welfare is read as individual good (whether conceptualized in terms of informed preferences or not) then the claim of welfarism reduces to the claim that social good consists in individual good. That is, all individual good contributes to the social good, and nothing else contributes to the social good. This interpretation of welfarism is non-standard, since the term is used primarily in the context of the economist's narrow interpretation of welfare as utility, based on actual preferences. This non-standard view of welfarism is much closer to the principle of personal good advanced by Broome (1991a), and to other statements of individualistic theories of good (Raz, 1986; Hamlin and Pettit, 1989); but even so it is contentious. This expanded notion of welfarism denies the existence of irreducibly social goods (Taylor, 1990 and related discussion); that is, aspects of the social good that do not derive from the good of individuals.

If the distinction between welfare and good at the individualistic level is maintained, welfarism is clearly still more contentious. In these circumstances welfarism claims that while all social good is reducible to individual good, not all individual good is social good. Only that aspect of individual good that is included in welfare is to count at the social level. One possible defence of this version of welfarism builds once again on the anti-paternalistic argument. If individual welfare is defined in terms of actual preference satisfaction, then one might argue that although this misses some aspects of individual good, it is nevertheless the only solid foundation for the social good. Of course, such an argument may be attacked by claiming that some further aspects of the individual good are objectively knowable, so that these could, and should, be incorporated into the social good.

The move from individual welfare to social welfare also highlights the question of identifying the relevant population. This is of particular concern given the endogeneity of the population when considering policy options, most obviously in the case of health policy and policy on contraception, but also in areas such as environmental policy, safety policy and so on. The questions raised in the discussion of future generations are amongst the most difficult faced by social scientists. In part they relate to the question of discounting the future, in part to the interpersonal comparability of welfare, but most problematically they relate to the question of the significance of personal identity (Sikora and Barry, 1978; Parfit, 1984; Broome, 1988; Dasgupta, 1988).

The Politics of Welfare

Welfare enters the normative political debate at two distinct levels. The first may be summarized in the question, 'Is welfare the business of the state?' Any affirmative answer to this question then opens up the second level of debate concerning the more detailed responses of the state to claims of welfare. The first of these levels identifies the location of the classic debate between teleological and deontological schools of thought as applied to the state. The standard notion that teleology is concerned with the good, while deontology is concerned with the right, is sufficient to remind us that while all teleological theories will regard considerations of welfare as a vital ingredient in the normative appraisal of the state, deontological considerations will work in quite a different way. Considerations of this kind would take us too far from the topic of the present essay, and so I shall simply assume that the answer to the first-level question is, 'Yes'. This still leaves a wide range of possibilities at the second level. The simple fact that the state should recognize and respond to considerations of welfare says nothing about the nature of that recognition, or its implications for policy. It is this range of possibilities that forms the subject matter of this section.

The first distinction to be made is that between a political commitment to individual welfare and a political commitment to social welfare. In the former case the state may be conceived as a collective means for the promotion of individual ends, as suggested by Rawls's well-known phrase, 'society is a cooperative venture for mutual advantage'. In the latter case one might conceive the underlying purpose of the state as the maximization of social welfare (Sugden, 1989).

The political significance of this distinction is great, but not simple. At first glance it might seem that a commitment to individual welfare would lead to the politics of unanimity, with each individual able to veto actions which threatened her welfare; while a commitment to social welfare would allow of a greater flexibility in trading off one person's welfare against another's, with a more redistributive and interventionist result. But this would be to confuse the subject of the commitment with the form of the commitment. We might consider a state that is committed to individual welfare in the sense that no social or aggregate measure of welfare is of political relevance, but is committed to, say, guaranteeing that no individual's welfare falls below a certain level (assuming this to be feasible). Such a state may be extremely interventionist and redistributive without being in the least collectivist.

With this in mind, the second set of distinctions to be made concerns the form of the political commitment to welfare. The most obvious thing to do with the good is to maximize it; and it is hardly surprising that maximization plays a crucial role in the debate on the commitment to welfare. But simple maximization is not the only possibility, and it will be useful to focus on three cases: simple maximization, maximization with minimum constraints, and maximization with equality constraints.

Simple maximization is precisely that in the case of a commitment to social welfare; but in the case of a commitment to individual welfare simple maximization may be interpreted as the maximization of each individual's welfare subject to there being no trade-off between individuals. Thus, in maximizing A's welfare, we may not reduce B's. This notion relates directly to the economist's notion of Pareto efficiency (which is more

normally discussed in terms of the narrow concept of welfare as utility). All states of the world in which no further improvement in any individual's welfare can be attained without reducing the welfare of another are Pareto efficient.

The imposition of minimum constraints may be thought of as building an aversion to poverty into the commitment to welfare (Sen 1981; 1983; Barry, 1990). The minimum constraint (which may be defined in absolute or relative terms) identifies the lowest level of individual welfare that will be tolerated, and this constrains the maximization process in either its individualistic or social form. One point should be noticed here. In the broad understanding of welfare as good, we may assume that each individual's welfare already accounts for their own aversion to poverty, so that to impose such minimum constraints on the maximization process might seem to be a breach of the broad principle of welfarism. That is, we might seem to be importing some valuation of poverty onto the political calculus over and above those valuations held by individuals. And in one sense this is true, but it does not constitute a breach of welfarism. All that is required by welfarism is that social welfare depend only on individual welfare; it does not specify the form of that dependence. The imposition of a minimum constraint on the process of maximization merely identifies the form of the relationship between individual and social welfare (see Broome, 1991a for detailed discussion).

The imposition of equality constraints may be thought of as building inequality aversion into the commitment to welfare. The equality constraint identifies the maximal extent of interpersonal inequality that will be tolerated, and this constrains the maximization process in either its individualistic or social form. Of course, one might wish to incorporate both a minimum constraint and an equality constraint, and other forms of constraint may also be motivated; the point is simply that such concerns can be incorporated within the general structure of the maximization of either individual or social welfare.

With all this in mind, we come, at last, to the question of the appropriate response of the state to claims of welfare. Clearly, any state that responds to claims of welfare might be said to be a 'welfare state', but that title tends to be reserved for states in which the response takes particular forms (contrast the discussions in Weale, 1983; Plant, 1985; 1991; Goodin, 1988; Barry, 1990). We are now in a position to understand how different groups may come to widely different substantive positions on the particular forms of the response to claims of welfare by taking different routes through our discussion of welfare. Two examples will illustrate the point.

Case 1

Accept the broad definition of individual welfare as good, and the conceptualization of welfare as informed preference satisfaction. But also accept the anti-paternalist critique, so that actual preferences are regarded as the only available guides to individual welfare. Furthermore, accept the political commitment to the simple maximization of welfare in the individualistic, Paretian, sense. In this case the appropriate political response to the acknowledged claims of welfare might be argued to be to rely on the market as a means of achieving the desired objective (subject to the standard battery of qualifications concerning monopoly and other institutional market failures) via the standard result that the outcome of a set of competitive markets will be Pareto efficient relative

to the preferences actually held by the participating individuals. In this case, then, a particular brand of commitment to welfare produces a political response of a type normally held to be in sharp contrast to the 'welfare state'.

Case 2

Accept the broad definition of welfare as good, and the conceptualization of welfare as informed preference satisfaction. Also accept that certain informed preferences can be known objectively, and label these as 'needs'. Accept the political commitment to the maximization of social welfare subject to both minimum and equality constraints. In this case the appropriate political response to the acknowledged claims of welfare may involve the state in redistributive activity in response to the constraints on the maximization of social welfare, and in the direct supply of certain goods or services in amounts greater than would be consumed voluntarily so as to satisfy the objectively identified 'needs' for those goods or services. If we include education, health services and housing services amongst the identified 'needs', we can see that this case roughly approximates the political conception of the 'welfare state' (on the relationship between the specific 'goods' of education and healthcare and welfare, see Daniels, 1985; Gutmann, 1987).

Clearly, different routes through the conceptual discussion of welfare could lead to a wide range of alternative positions – each of which could legitimately claim to be based on considerations of welfare, but each advocating a distinct approach to policy. At the same time it is possible to argue that the policies and structures that might be thought as characteristic of the welfare state can be justified in a wide variety of ways, some of which might have little connection with the traditional welfare concerns with needs, equality and so on. Again, an example may help to underline this point.

Consider the provision of health services via a system involving no fees at the point of service and financed out of income taxation. Such a policy might be justified in welfare terms by reference to an objective need for healthcare, perhaps combined with some commitment to positive freedoms and capabilities, or some commitment to equality of access. However, it might also be possible to justify an essentially similar policy from a starting point that accepted none of these commitments. It might be argued that the healthcare market suffered from a particular range of market imperfections and that the policy was a reaction to these market imperfections rather than a reaction to any particular characteristics of healthcare *per se*. Thus, it is the asymmetry of information as between the demander (the patient) and the supplier (the doctor), or the possible failures in the market for medical insurance, that are at the root of the argument for the policy, rather than any conception of a need for, or positive right to, healthcare (for related discussion see Culyer, 1989). Or we might base a health policy of the sort described on more deontological considerations which might operate to identify, say, a duty on the relatively rich to support the health of the relatively poor, without any consideration of the welfare implications of such a duty.

We are left with a problem regarding the best way to define a welfare state. Do we categorize states according to the arguments that are taken as valid in considering policies, or do we categorize states according to the policies that are enacted regardless of their origins? Both approaches have their merits, but they should not be confused.

Claims of welfare do not necessarily give rise to what are normally regarded as welfare policies, and welfare policies may be derived from other starting points.

In order to make further progress with this problem, we need to set the normative politics of welfare in the context of a more positive political analysis. For example, if we conceive of democratic politics in terms of the interaction of rational individuals within a framework of rules governing collective decision-making procedures, then it is clear that policies are to be explained in terms of the interaction of the preferences of the individuals making up society and the rules of the political game – the constitution. In this framework there is no central decision maker who must respond to claims of welfare (or claims of any sort); rather the political decisions will emerge from the complex interaction within the political process. In this context, then, what matters are the political outcomes – the state will be a 'welfare state' to the extent that it enacts certain policies since no real sense can be given to the notion of the argument leading to that outcome. There is no single effective argument, just the myriad of particular actions of individuals within the political process.

Two points stand out in this setting. The first is that the actions of individuals within the political process are normally presumed to be motivated (at least in part) by their actual preferences over the considered alternatives, rather than any idealized or fully informed preferences; so that the welfare properties of political outcomes might be expected to fall short of the normative ideal to the extent that political choices do not reflect fully informed preferences. The second is that for any set of individuals the outcomes will depend on the design of the constitutional rules. This suggests that it is in the design of the political process itself that we can exert some influence over the extent to which the state displays the character of a welfare state. If politics is to be more sensitive to underlying claims of welfare (in whatever sense) this must be achieved by structuring the political process in such a way that it can distinguish true claims of welfare from observed political behaviour.

Of course, the discussion of the last two paragraphs has taken place within the context of a particular positive model of politics, and other models are available (such as the deliberative democracy discussed by Cohen and Rogers, 1983; Cohen, 1989; see also Frey, 1997; Brennan and Hamlin, 2000). The general point is simply that the factors that contribute to the realization of a welfare state will depend on the particular positive model of politics that is maintained, as well as the underlying conceptualization of welfare.

Final Remarks

The concept of welfare and the role it plays in normative political analysis are topics that are hotly debated. I have done no more than hint at some of the points under debate and their significance, and so provide a guide to the various maps of welfare in current use.

Our brief tour of some of the key issues involved in the conceptualization of welfare suggests that the informed preference theory of individual welfare together with the extended notion of welfarism provide the best available conceptualization of welfare at the individual and social level. A clear limitation of this position is indicated by the

anti-paternalistic, epistemic argument. It may well be the case that the informed preference theory provides an appropriate conception of personal welfare as good, but this may be of little practical significance if we do not and can not know an individual's fully informed preferences.

This problem focuses attention on two alternative proxies for an individual's fully informed preferences: that individual's actual preferences (or at least, those preferences that the individual actually expresses in a particular context; see Brennan and Hamlin, 2000); and arguments concerning the objectively good. Arguments of the second kind are often presented as arguments of need, or arguments of positive rights, or arguments of equality, but the framework sketched here suggests that they may also be understood in terms of claims about the content of fully informed preference. Much of the political debate concerning the appropriate response to claims of welfare derives from the tension between these alternative approaches to identifying the content of fully informed preferences.

The political role of considerations of welfare may be approached from either a normative or a positive standpoint. In terms of the normative evaluation of states and their policies it is clear that a variety of positions can be defended depending upon the precise specification of welfare adopted, and that even rather slight differences in this specification can lead to major differences at the level of policy evaluation. In this way the content of the concept of the welfare state may be seen to be very sensitive to the resolution of the debates identified above. At the positive level, the forces which tend to promote a welfare state (of whatever variety) will vary with the positive model of politics that is adopted. Democratic politics may be conceived, *inter alia*, as the aggregation of individual preferences over social outcomes, as bargaining within institutional constraints, or as a process of public debate aimed at consensus. Only when a specific conception of politics is defended, and a specific conception of welfare defended, can the practical realization of a welfare state be debated without ambiguity.

References

Alkire, S.: *Valuing Freedoms: Sen's Capability Approach and Poverty Reduction* (Oxford: Oxford University Press, 2002).

Arrow, K.: *Social Choice and Individual Values*, 2nd edn (New Haven, Conn.: Yale University Press, 1963).

Barry, B.: *Theories of Justice* (Berkeley, Calif.: University of California Press, 1989).

—: 'The welfare state and poverty', *Ethics*, 100 (1990), 503–29.

—: *Welfare* (Milton Keynes: Open University Press, 1990).

—: *Justice as Impartiality* (Oxford: Oxford University Press, 1995).

Brandt, R. B.: 'Two concepts of utility', in *The Limits of Utilitarianism*, ed. H. B. Miller and W. H. Williams (Minneapolis, Minn.: University of Minnesota Press, 1982), pp. 169–85.

Braybrook, D.: *Meeting Needs* (Princeton, NJ: Princeton University Press, 1987).

Brennan, G. and Hamlin, A.: *Democratic Devices and Desires* (Cambridge: Cambridge University Press, 2000).

Broome, J.: 'Some principles of population', in *Economic Growth and Sustainable Environments*, ed. D. Collard, D. Pearce and D. Ulph (London: Macmillan, 1988), pp. 85–96.

—: *Weighing Goods* (Oxford: Blackwell, 1991a).
—: 'Utility', *Economics and Philosophy*, 7 (1991b), 1–12.
—: 'A reply to Sen', *Economics and Philosophy*, 7 (1991c), 285–7.
—: 'Discounting the future', *Philosophy and Public Affairs*, 23 (1994), 128–56.
Cohen, J.: 'Deliberation and democratic legitimacy', in *The Good Polity*, ed. A. Hamlin and P. Pettit (Oxford: Blackwell, 1989), pp. 17–34.
Cohen, J. and Rogers, J.: *On Democracy* (Harmondsworth: Penguin, 1983).
Culyer, A. J.: 'The normative economics of health care finance and provision', *Oxford Review of Economic Policy*, 5 (1989), 34–58.
Daniels, N.: *Just Health Care* (Cambridge: Cambridge University Press, 1985).
Dasgupta, P.: 'Lives and wellbeing', *Social Choice and Welfare*, 5 (1988), 103–26.
Dworkin, G.: 'Paternalism', *The Monist*, 56 (1972), 64–84.
Dworkin, R.: 'What is equality?', *Philosophy and Public Affairs*, 10 (1981), 185–246, 283–345.
Frey, B.: *Not Just for the Money* (Cheltenham: Edward Elgar, 1997).
Goodin, R. E.: *Reasons for Welfare* (Princeton, NJ: Princeton University Press, 1988).
Griffin, J.: *Wellbeing: Its Meaning, Measurement and Moral Importance* (Oxford: Oxford University Press, 1986).
—: *Value Judgements: Improving our Ethical Beliefs* (Oxford: Oxford University Press, 1996).
Gutmann, A.: *Democratic Education* (Princeton, NJ: Princeton University Press, 1987).
Hamlin, A. and Pettit, P.: 'The normative analysis of the state: some preliminaries', in *The Good Polity*, ed. A. Hamlin and P. Pettit (Oxford: Blackwell, 1989), pp 1–13.
Hausman, D. and McPherson, M.: *Economic Analysis and Moral Philosophy* (Cambridge: Cambridge University Press, 1996).
Nussbaum, M.: 'Capabilities as fundamental entitlements: Sen and social justice', *Feminist Economics*, 9 (2003), 33–59.
Parfit, D.: *Reasons and Persons* (Oxford: Oxford University Press, 1984).
Plant, R.: 'The very idea of a welfare state', in *Defence of Welfare*, ed. P. Bean, J. Ferris and D. Whynes (London: Tavistock Publications, 1985), pp. 3–30.
—: *Modern Political Thought* (Oxford: Blackwell, 1991).
Pogge, T.: 'Can the capability approach be justified?', *Philosophical Topics*, 30 (2002), 167–228.
Raz, J.: *The Morality of Freedom* (Oxford: Oxford University Press, 1986).
Schwartz, T.: 'Human welfare: what it is not', in *The Limits of Utilitarianism*, ed. H. B. Miller and W. H. Williams (Minneapolis, Minn.: University of Minnesota Press, 1982), pp. 169–85.
Sen, A. K.: 'Isolation, assurance and the social rate of discount', *Quarterly Journal of Economics*, 81 (1967), 112–24.
—: 'Utilitarianism and welfarism', *Journal of Philosophy*, 76 (1979), 463–89.
—: *Poverty and Famines* (Oxford: Clarendon Press, 1981).
—: 'Poor, relatively speaking', *Oxford Economic Papers*, 135 (1983), 153–69.
—: 'Rights and capabilities', in *Morality and Objectivity*, ed. T. Honderich (London: Routledge and Kegan Paul, 1985a), pp. 130–48.
—: *Commodities and Capabilities* (Amsterdam: North Holland, 1985b).
—: 'Utility: ideas and terminology', *Economics and Philosophy*, 7 (1991), 277–84.
—: *Rationality and Freedom* (Cambridge, Mass.: Harvard University Press, 2002).
Sikora, R. I. and Barry, B., eds: *Obligations to Future Generations* (Philadelphia, Pa.: Temple University Press, 1978).
Sugden, R.: 'Maximizing social welfare: is it the government's business?', in *The Good Polity*, ed. A. Hamlin and P. Pettit (Oxford: Blackwell, 1989), pp. 69–86.

Taylor, C.: 'Irreducibly social goods', in *Rationality, Individualism and Public Policy*, ed. G. Brennan and C. Walsh (Canberra: Australian National University, 1990), pp. 45–63.
Weale, A.: *Political Theory and Social Policy* (London: Macmillan, 1983).
Wiggins, D.: 'Claims of need', in *Morality and Objectivity*, ed. T. Honderich (London: Routledge and Kegan Paul, 1985), pp. 149–203.

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